

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.2212 of 2018 and
CMP.No.13960 of 2018

1.Amaravathy
2.Jayaseelan
3.Kanrayan
4.Manikandan
5.Iyappan

...Petitioners

Vs.

Jayaraman

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 08.01.2018 passed in IA.No.616 of 2017 in OS.No.275 of 2013 on the file of Principal District Munsif Court, Cheyyar.

For Petitioners : Mr.P.Mani

For Respondent : No Appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 08.01.2018 passed in IA.No.616 of 2017 in

OS.No.275 of 2013 on the file of Principal District Munsif Court, Cheyyar, thereby dismissing the petition seeking appointment of advocate commissioner.

2. The petitioners are the defendants 15 to 19 in the suit filed by the respondent herein. The respondent filed suit for partition. On receipt of summon, the petitioners filed written statement and specifically averred that the suit property was already partitioned between the family members and they were allotted their respective shares. After their allotment, they also constructed respective houses and residing there. To find out the said fact, the petitioners filed petition for appointment of advocate commissioner to inspect the suit property and note down its features. The court below dismissed the petition stating that the petition for appointment of advocate commissioner is nothing but collection of evidence and also stated that it was filed belatedly, that too when the suit was posted for cross examination of DW2.

3. As rightly pointed out by the learned counsel for the petitioners, the petitioners already filed their written statement and categorically averred that the suit property was already partitioned between the family members and also they constructed houses in their

respective shares. Considering the same, an Advocate Commissioner can be appointed to inspect the suit property and note down its features.

4. In view of the above, this civil revision petition is allowed and the order dated 08.01.2018 passed in IA.No.616 of 2017 in OS.No.275 of 2013 on the file of Principal District Munsif Court, Cheyyar is set aside. It is made clear that the Advocate Commissioner is directed to only inspect the suit property and note down its features. Consequently, connected miscellaneous petition is closed. No order as to costs.

30.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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G.K.ILANTHIRAIYAN,J.

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To

The Principal District Munsif Court,
Cheyyar



CRP.PD.No.2212 of 2018

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