

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM

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

CRP.PD.No.2327 of 2018

and

CM.P.No.14447 of 2018

1. K.R.Mani
S/o. Ramasamy Gounder

2. Rajathimani
W/o. K.R.Mani

..Petitioners

Vs.

1. Sengoda Gounder
S/o. Chinna Nachiyappa Gounder

2. Ramasamy(Died)
S/o. Chinna Nachiyappa Gounder

3. Ramayee
W/o. Late Ramasamy

(R3 brought on record as LR of the deceased
R2 viz., Ramasamy vide Court order
dated 24.10.2019 made in CMP.No.20121/2019
in CRP.No.2327/2018)

..Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 14.03.2018 made in I.A.No.961 of 2017 in I.A.No.1200 of 2013 in O.S.No.49 of 2010 on the file of the District Munsif Court, Mettur.

For Petitioner : No Appearance

For Respondent : Mr.V.Sekar for R1
R2-Died (Steps Taken)
R4-Not ready in notice

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 14.03.2018 made in I.A.No.961 of 2017 in I.A.No.1200 of 2013 in O.S.No.49 of 2010 on the file of the District Munsif Court, Mettur, thereby dismissing the petition to resist the Advocate Commissioner's Report.

2. The petitioners are the defendants 2 and 8 and the respondents are the plaintiffs in the suit. The respondents filed a suit for declaration and permanent injunction in respect of the suit property. While pending the suit, the respondents filed a petition in I.A.No.304 of 2017 seeking for appointment of Advocate Commissioner to inspect the suit property with the help of the surveyor to measure the same and to file a report and the same was allowed by the Court below. Accordingly, the Advocate Commissioner inspected the suit property and filed his Report on

14.11.2014. In fact, the petitioners also filed their objection to the Advocate Commissioner's report. At that juncture, again the petitioners filed the petition to resist entire report of Advocate Commissioner for the reason that the respondents filed the petition for seeking appointment of Advocate Commissioner without mentioning the sub division in respect of the suit property in the year 1984-1985. Further, they failed to mention about the new Survey Numbers to extend the property boundaries in the suit. Therefore, the Advocate Commissioner inspected the suit property as provided in the plaint schedule and filed his report. Therefore it is liable to resist the Advocate Commissioner's report.

3. The learned counsel for the petitioner filed a memo stating that the counsel for the petitioners already handed over the case bundles. Thereafter, the petitioners failed to engage any counsel to appear before this Court. Today, neither petitioner nor any counsel appeared before this Court.

4. Only on the insist of the respondents, the Advocate Commissioner was appointed and accordingly inspected the suit property and filed his report. It is the duty of the respondents/plaintiffs to appreciate their case. If

they wrongly mentioned the new survey numbers to extend the boundaries, then they have to face the consequences. That apart, the petitioners already filed their objection to the Advocate Commissioner's Report. Therefore, the Court below rightly dismissed the petition. As such, this Court finds no infirmity and illegality in the order passed by the Court below.

Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

24.06.2021

(2/2)

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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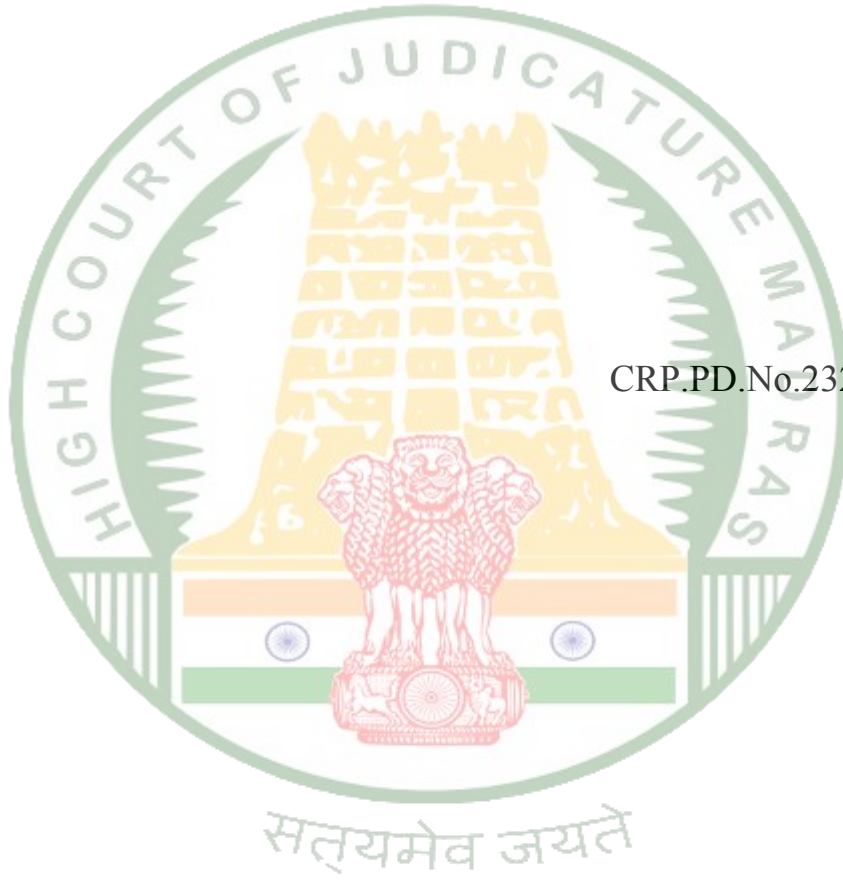
To

The District Munsif Court,
Mettur

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G.K.ILANTHIRAIYAN,J.

dh



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