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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2106 of 2021

and

C.M.P.No.16039 of 2021

G.Anbanandan (died)

1. A. Santha Kumari

2. A. Sasi Kumar

3. A. Kalpana Devi

4. A. Raj Kumar

... Petitioners

Vs

P DOT G Construction (P) Ltd.,
Represented by its Managing Director
P.G. Prabakar Reddy,
Having office at
No.8, Square,
No.26, Balasubramaniam Street,
Sapthagiri Nagar,
Valasaravakkam,
Chennai - 600 116.

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India against the order passed in I.A. No.176 of 2018 in O.S. No. 9 of 2015, dated 16.02.2021 passed by the I Addl. District Judge, Tiruvallur.

For Petitioners : Mr. NA. Malaisaravanan

O R D E R

This Civil Revision Petition is filed challenging the order passed in I.A.No.176 of 2018 in O.S.No.9 of 2015 by the Learned I Additional District Judge, Tiruvallur on 16.02.2021.



2.The Learned Counsel for the Petitioners submitted that the Petitioners have filed a Suit for declaration of Petitioners' title over the Suit property and directing the Respondent to put them in vacant possession of the Suit property after removing construction made by them. The Petitioners have also filed I.A.No.176 of 2018 under Order XXVI Rule 9 of the Civil Procedure Code for appointment of an Advocate Commissioner for the purpose of measuring the Suit property as well as the entire extent with adjacent properties with the help of district surveyor. This Petition was allowed in part giving direction to the Advocate Commissioner to measure 7 cents out of 1.47 acres which is the Suit schedule property within the boundaries described in the plaint schedule.

3.The Learned Counsel for the Petitioners further submitted that unless the total extent of 1.47 acres is measured, it is not possible to identify and measure the 7 cents out of 1.47 acres. Therefore, he seeks that the Advocate Commissioner may be permitted to inspect and measure the total extent of 1.47 acres in Survey No.21 of Periyakuppam Village, Tiruvallur Taluk and District.

4.The schedule of the property shows that the property is in S.No.21 of Periyakuppam Village, Tiruvallur Taluk and District. Out of the total extent of 1.47 acres, suit property is 7 cents. It is bounded on the North and South by the remaining extent of land on the East by S.Nos.21 & 18 and West by Pathiyalpettai Road. This is the Suit property. There is a total extent of 1.47 acres in this survey number. The concern of the Learned Counsel for the Petitioners is that unless the total extent of 1.47 acres is measured, no purpose would be served and therefore, requested that total extent to be measured for identifying the 7 cents of the Suit property.

5.It is a Suit for declaration of title over the Suit schedule property and recover possession after removing the alleged construction put up by the Respondent. To resolve this issue, this Court is of the considered view that only if the total extent of 1.47 acres is measured, the Suit property can be properly and correctly identified. In this view of the matter, the order of the Learned I Additional District Judge, Tiruvallur is modified to the extent that the Advocate Commissioner is directed to inspect the property concerned in S.No.21 of Periyakuppam Village, Tiruvallur Taluk and District to an extent of 1.47 acres and identify and measure 7 cents of the Suit property within the boundaries mentioned in the plaint with the assistance of a surveyor and file a report along with plan.



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6. Accordingly, this Civil Revision Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ay/ep

To

The I Additional District Judge,
Tiruvallur.

+2ccs to M/s.NA.Malai Saravanan, Advocate, S.R.No.51461

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and
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KSM(CO)
SU(02/11/2021)