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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD).NO.2592 OF 2021

AND

CMP.NO.19212 OF 2021

1.Thangammal

2.Arumugam

..Petitioners

Vs.

1. The State of Tamilnadu,
Represented by the District Collector,
Namakkal District, Namakkal.
2. The District Revenue Officer,
Namakkal District, Namakkal.
3. The Deputy Director,
Survey & Records Department,
Office of District Survey,
Namakkal District, Namakkal.
4. The Revenue Divisional Officer,
Office of Revenue Divisional Officer,
Tiruchengode Town, Namakkal District.
5. The Tahsildhar,
Office of the Tahsildar,
Paramathi Velur Taluk, Namakkal District.
6. Shanmugam
7. Mayilsamy

..Respondents

Praye: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 08.09.2021 passed in IA.No.1 of 2021 in IA.No.350 of 2015 in OS.No.67 of 2015 on the file of the learned District Munsif, Paramathi.



For Petitioners : Mr.K.Soundara Rajan

O R D E R

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Challenge in this revision is to the order of the Trial Court dismissing the application in IA.No.1 of 2021, seeking to scrap the report of the Commissioner and to appoint a new Commissioner.

2.It is seen from the records that the application in IA.No.350 of 2015 was filed by the plaintiffs seeking appointment of a Commissioner and a Commissioner was also appointed. The Commissioner filed a report and plan. The petitioners have also filed their objections to the said report and plan. Claiming that the report and plan of the Commissioner are incorrect, I.A.No.1 of 2021 has been filed seeking to scrap the report and to appoint a new Commissioner.

3.Admittedly, the evidence has not been taken. This Court has repeatedly held that the Commissioner's report cannot be scrapped for the mere asking. It is for to the petitioners to examine the Commissioner and establish before the Court that the report is wrong. If the Court finds that the report is incorrect, it is always open to the Court to scrap the report and appoint a new Commissioner. Till such time the evidence let in on the contents of the report, the Court cannot scrap the report and appoint a new Commissioner. Therefore, the Trial Court is justified in dismissing the application. I see, no reason to interfere with the conclusion of the Trial Court except to observe that it will be open to the petitioners to examine the Commissioner or let in evidence to demonstrate that the report is incorrect. If the Trial Court agrees with the contention and finds that the report is incorrect, it will be open to the Trial Court to appoint a new Commissioner and call for a fresh report.

4.This civil revision petition fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kkn



To:-

The District Munsif Court,
Paramathi.

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+1cc to Mr.K.Soundara Rajan, Advocate, S.R.No.61745

C.R.P (PD) .No.2592 of 2021
and
CMP.No.19212 of 2021

KG (CO)
RLP (17/12/2021)