

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

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

**C.R.P.(PD) No.3801 of 2018**

1.Sundarasamy  
2.Selvi

.... Petitioners

Vs

1.Ponnusamy  
2.Samathal  
3.Marimuthusamy  
4.Eswari  
5.Thangavel  
6.Ponnusamy  
7.Ponnusamy @ Kuppusamy  
8.Eswaramurthy

... Respondents

**Prayer** :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 01.03.2018 made in IA.No.345 of 2015 in OS.No.159 of 2014 on the file of the District Munsif Court, Kangeyam, Thiruppur District.

For Petitioners : Mr.Sadhananthan  
for Mr.M.Saravana Kumar

For Respondents  
For R1 to 6 : Mr.N.S.Sivakumar  
R7 & 8 : No appearance

**ORDER**

This Civil Revision Petition is filed against the order dated 01.03.2018 made in IA.No.345 of 2015 in OS.No.159 of 2014 on the file of

the District Munsif Court, Kangeyam, Thiruppur District, thereby re-issued warrant to re-inspect the suit property.

2. The petitioners are the defendants and the respondents are the plaintiffs. The respondents filed suit for declaration and injunction. While pending the suit, the respondents filed petition for seeking appointment of advocate commissioner to note down the physical features of the suit property and survey the suit property and to file report along with sketch. The same was allowed and advocate commissioner visited the suit property and he also filed his report. According to the respondents, though the advocate commissioner noted down the physical features of the suit property and noted down the encroachment made by the petitioners, he failed to mention the proper measurement of the encroached portion in the suit property. Therefore, again the respondents filed petition to re-issue warrant to the same advocate commissioner to visit the suit property and survey the same with the help of the surveyor.

3. The only objection raised by the petitioners is that the surveyor shall measure the suit property in accordance with the sale deed in

respect of the suit property and not on the basis of the patta, since patta was issued for joint owners and all the owners are to be served notice before measuring the property. On perusal of the advocate commissioner's report, as pointed by the learned counsel for the respondents, he failed to mention the measurement of the portions marked in the rough sketch. Only for that purpose, the court re-issued warrant to the advocate commissioner to measure the property with the help of the surveyor. Therefore, this Court finds no infirmity or illegality in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. However, the surveyor is directed to measure the suit property in accordance with the revenue records as well as other documents. No order as to costs.

सत्यमेव जयते

06.07.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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**G.K.ILANTHIRAIYAN,J.**

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To

The District Munsif,  
Kangeyam, Thiruppur District.



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