



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.04.2021

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.636 of 2021

P.A.Jannath Kani

... Petitioner/1st Respondent
/1st Petitioner/1st Plaintiff

-Vs-

1.R.Ramaiyyan

...1st Respondent/Petitioner
/Third Party/Third party

2.P.A.Noorjahan

...2nd Respondent/2nd Respondent
/2nd Petitioner/2nd Plaintiff

3.P.S.Jamruth Begam

4.Hajeeran Beevi

5.Ameer Beevi

6.Shahul Hameed

7.Nihara

8.Rajendran

...Respondents 3 to 8/Respondents 3 to 8
/Respondents 1 to 6/Defendants 1 to 6

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the lower Court to dispose the application in I.A.No.98 of 2020 in I.A.No.2 of 2005 in O.S.No.19 of 1996 on the file of the Additional Subordinate Judge, Kumbakonam, within the time frame fixed by this Court.

For Petitioner : Mr.R.Subramanian

O R D E R

This Civil Revision Petition has been filed to dispose the application in I.A.No.98 of 2020 in I.A.No.2 of 2005 in O.S.No.19 of 1996 on the file of the Additional Subordinate Judge, Kumbakonam within the time span as fixed by this Court.

2.The learned counsel for the petitioner would submit that the petitioner as plaintiff filed a suit in O.S.No.19 of 1996 before the Additional Subordinate Judge, Kumbakonam against the respondents/defendants for the relief of partition and separate possession. In the said suit, a preliminary decree was passed on 08.07.2003. Subsequently, the same was modified by this Court in A.S.No.336 of 2004. In this circumstance, the petitioner filed I.A.No.2 of 2005 to pass a final decree by appointing an Advocate Commissioner to measure and divide the property, in which, the Advocate Commissioner was appointed by the Court below and after inspection, the Advocate Commissioner has filed his report. In the



meanwhile, at the instigation of some third parties, the first respondent herein filed I.A.No.98 of 2020 to implead himself as a party and contended that while measuring the suit property, the Advocate Commissioner has wrongly annexed the adjacent land belonged to him and hence, he is a necessary party to the above proceedings. The grievance of the petitioner is that the final decree application is pending for the past 15 years. Though the petitioner has filed her counter in I.A.No.98 of 2020, the first respondent is deliberately prolonging the matter by taking unnecessary adjournments. Hence, the petitioner prays for early disposal of I.A.No.98 of 2020.

3. Since this Civil Revision Petition is filed for early disposal of the Suit, as no adverse order is going to be passed, notice to the respondents is dispensed with.

4. Perusal of record shows that the suit is of the year 1996 and the same is pending even after expiry of more than 25 years. The grievance of the petitioner is that in the final decree application, third party claiming right over the subject property cannot be impleaded. The learned Subordinate Judge has to see whether interim applications filed are vexatious or not and to dispose of the suit at an early date. Considering the facts and circumstances of the case and also considering the fact that the final decree application in I.A.No.2 of 2005 is pending for the past 15 years, this Court feels that ends of justice would be met by directing the Court below to dispose of the I.A.No.98 of 2020 and O.S.No.19 of 1996 within a time frame. Without adverting to the merits of the case, a direction is issued to the learned Additional Subordinate Judge, Kumbakonam to dispose I.A.No.98 of 2020 and O.S.No.19 of 1996 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-

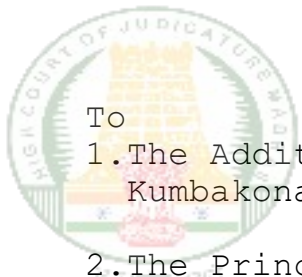
Assistant Registrar (RTI ACT)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Additional Subordinate Judge
Kumbakonam.

2.The Principal District Judge
Tiruchirapalli District.

Copy to

The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-15066[F] dated
01/04/2021)

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KUN(CO)

KB(11.05.2021) 3P 5C