



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.02.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
CRP(MD)Nos.786 and 787 of 2020
and C.M.P.(MD)Nos.5310 of 2020
and 1038 of 2021

1.Malathi
2.Vanathan

... Petitioners/Petitioners/Defendants
vs.

Indira Bai

... Respondent/Respondent/Plaintiff

PRAYER: These Civil Revision Petitions have been filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order dated 11.06.2020 in O.S.No.34 of 2012 in I.A.Nos.1619 of 2018 and 421 of 2018 on the file of the District Munsif Court, Musiri at Tiruchirappalli and allow these Civil Revision Petitions with costs.

(In both petitions)

For Petitioners : Mr.H.Lakshmi Shankar
For Respondent : Mr.K.Arunraj

C O M M O N O R D E R

These Civil Revision Petitions have been filed to call for the records and set aside the fair and decreetal order dated 11.06.2020 in O.S.No.34 of 2012 in I.A.Nos.1619 of 2018 and 421 of 2018 on the file of the District Munsif Court, Musiri at Tiruchirappalli and allow these Civil Revision Petitions with costs.

2.The learned counsel for the petitioners would submit that the petitioners herein are the defendants and the respondent is the plaintiff in the suit in O.S.No.34 of 2012. The said suit was filed for declaration and permanent injunction. Pending suit, in I.A.No.112 of 2012, an Advocate Commissioner was appointed. After surveying the suit property, the Advocate Commissioner filed an interim report and thereafter, he has filed the final report with surveyor's sketch. According to the petitioners, the Advocate Commissioner and the Surveyor did not measure the properties as per the sale deeds of the respective parties. The fact that the entire area is a Natham land and only in a Natham Survey Scheme, sub divisions have been effected and it is only a rough survey not conclusively deciding the matter. Therefore, the petitioners filed I.A.Nos.1619 of 2018 and 421 of 2018 seeking to scrap the report of the Commissioner and to reissue the warrant to the same Advocate Commissioner or anybody else to inspect the properties of both the parties and measure the same as per sale deeds of both parties and the revenue records and file a report with plan. After hearing the matters, the learned District Munsif has dismissed the applications, against which, these civil revision petitions.



3.The learned counsel for the petitioners would submit that as per Tamil Nadu Survey and Boundaries Act, 1923, the disputed boundaries can be decided by the Head Surveyor. The learned counsel for the respondent has also agreed for the same.

4.Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

5. Considering the facts and circumstances of the case and also considering the submissions made by both counsel, the learned District Munsif is directed to re-issue the Advocate Commissioner Warrant. The Advocate Commissioner is directed to inspect the property in dispute and note down its physical features with measurements with the help of Head Surveyor and filed his report within a period of 8 weeks from the date of receipt of the Commissioner warrant. When there is no boundary, the Head Surveyor can measure and fix the boundaries based on both parties' sale deeds.

6. In view of the order passed above, the learned counsel for the petitioners has not pressed C.R.P.(MD).No.786 of 2020.

7.Accordingly, C.R.P(MD).No.786 of 2020 is dismissed and C.R.P (MD).No.787 of 2020 is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The District Munsif,
Musiri at Tiruchirappalli

+1 CC to M/s.K.ARUNRAJ, Advocate (SR-6296[F] dated 19/02/2021)

+2 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-6347[F] 6348 dated 22/02/2021)

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TP (CO)

KB(15.04.2021) 2P 5C