



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.09.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (NPD) (MD) .No.1409 of 2021

and

C.M.P(MD) No.7923 of 2021

S.Kannappan @ Kannan (Died)

1. Vasanthi

2. Vaishnavi

Through their Power Agent
Sivaprakasam

... Petitioners/Petitioner

-vs-

1. Ramanathan

2. Muthusubramanian

Both the respondents 1 and 2
are represented

Through their Power Agent
Jambulingam

... Respondents/Respondents

PRAYER : This Civil Revision Petition is filed under Section 115 of C.P.C, to call for the records relating to the fair and decretal order dated 31.08.2021 made in E.A.No.41 of 2021 in E.P.No.19 of 2015 in O.S.No.23 of 2005 on the file of the learned Subordinate Judge, Devakottai set aside the same and consequently allow the present Civil Revision Petition.

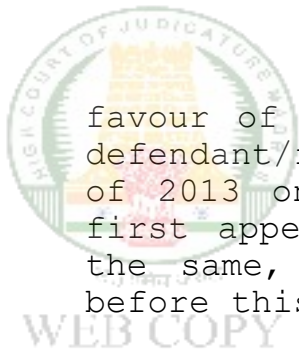
For Petitioners : Mr.J.Anandha Kumar for Mr.K.Vairamuthu

O R D E R

This Civil Revision Petition has been filed seeking direction to call for the records relating to the fair and decretal order dated 31.08.2021 made in E.A.No.41 of 2021 in E.P.No.19 of 2015 in O.S.No.23 of 2005 on the file of the learned Subordinate Judge, Devakottai and set aside the same.

2. Heard Mr.J.Ananda Kumar, learned counsel appearing for the petitioners.

3. The respondents/plaintiffs have filed a suit in O.S.No.23 of 2005 on the file of the Sub Court, Devakottai for the relief of declaration, recovery of possession and mandatory injunction. The said suit was decreed by judgment and decree dated 07.12.2012 in



favour of the respondents/plaintiffs. Aggrieved over the same, the defendant/father of the petitioners preferred an appeal in A.S.No.6 of 2013 on the file of the District Court, Sivagangai. The said first appeal was dismissed by the Appellate Court. Aggrieved over the same, a Second Appeal in S.A.(MD) No.493 of 2016 was filed before this Court and the same was dismissed on 20.03.2018.

4. E.P.No. 19 of 2015 filed for recovery of possession. In that E.P. plaintiffs filed E.A.No. 41 of 2021 filed to issue a letter of request to Municipality Commissioner to identify and measure the property.

5. The petition was allowed on the same day.

6. Aggrieved by this order the respondents/defendants filed this Revision.

7. There is dispute of identity of property between the two parties. The petitioners/defendants contended there is large extent of property other than suit schedule property.

8. Already Commissioner was appointed and he filed report and plan without measuring the property. So to identify the real extent, letter of request given to commissioner is reasonable.

9. So, this Civil Revision Petition is disposed of with the direction that the surveyor should inspect the property after giving notice to the revision petitioners/defendants. No costs. Consequently the connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ebsi

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 learned Sub Ordinate Judge,
Devakottai.

C.R.P. (NPD) (MD) .No.1409 of 2021
and
C.M.P (MD) No.7923 of 2021

KMV (CO)
TR/SKN(30.09.2021) 3P 2C