



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2021

CORAM:

THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**

CRP. (MD)Nos.1615 & 1616 of 2021

and

CMP. (MD)No.8750 of 2021

WEB COPY

Palpandian

... Petitioner in both CRPs.

Vs.

1.Muthuramu

2.Pandi

3.Thangavel

4.Veni

5.Ayyanar

6.Sathiyaraj

7.Shanmugam

8.Pandiammal

9.Shanmugavalli

... Respondents in both CRPs.

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and final order dated 09.04.2021 passed by the Subordinate Judge, Paramakudi in I.A.Nos.17 & 18 of 2021 in A.S.No.72 of 2017.

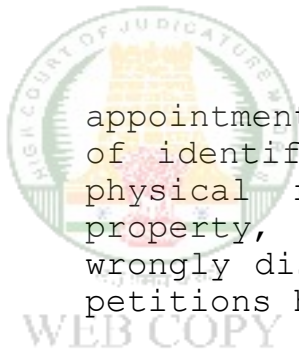
For Petitioner
(in both CRPs.)

: Mr.K.Sathish Kumar

COMMON ORDER

These civil revision petitions have been filed against the dismissal of the petition to reopen the case in I.A.No.17 of 2021 in A.S.No.72 of 2017 and dismissal of the petition to appoint an Advocate Commissioner in I.A.No.18 of 2021 in A.S.No.72 of 2017 by the Sub-Judge, Paramakudi.

2.The learned counsel appearing for the petitioner would submit that the petitioner had filed a suit in O.S.No.72 of 2016, on the file of the District Munsif Court, Paramakudi seeking for injunction in respect of scheduled property and the same was dismissed on 07.09.2017. Against the dismissal of the suit, the petitioner had preferred an appeal and it is pending on the file of the Sub Court, Paramakudi in A.S.No.72 of 2017. He would further submit that it is the case of the petitioner that the suit schedule property belonged to the first respondent by way of sale deed, dated 06.09.1945. In the said document, the suit schedule property was described as 12th item. However, the Trial Court has found that the plaint schedule property was not tallying with the sale deed, dated 06.09.1945 and thereby the petitioner had filed a petition for appointment of an Advocate Commissioner to find out the correct survey boundary, for the purpose of resolving the dispute between the parties. The



appointment of an Advocate Commissioner is necessary for the purpose of identification of suit schedule property and to note down the physical features and to find out the exact nature of the property, whereas, the Appellate Court without consideration, had wrongly dismissed the same. Therefore, the present civil revision petitions have been filed.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. It is seen that the petitioner is the plaintiff in O.S.No.72 of 2016, on the file of the District Munsif Court, Paramakudi, seeking for an injunction. The Trial Court, had dismissed the suit by judgment and decree, dated 07.09.2017. Against which, an appeal had been preferred during the year 2017. Though it is submitted by the learned counsel for the petitioner that necessary grounds were raised in the appeal, the petition for appointment of an Advocate Commissioner has been filed, at a much belated stage, when the case was posted for arguments. The Appellate Court finding that the petitioner has not stated any valid reasons for non-appointment of an Advocate Commissioner during trial and he has not raised this issue before the Trial Court and further finding that it was filed at the stage of arguments only to delay the appeal had dismissed the same and consequently, dismissed the reopen petition also.

5. I do not find any infirmity or illegality in the orders passed by the Appellate Court and these civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

To
The Subordinate Court,
Paramakudi.

+1 CC to M/s.K. SATHISHKUMAR, Advocate (SR-32943[F] dated 27/10/2021)

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25.10.2021

SKN (CO)
KB(19.11.2021) 2P 3C