



C.R.P.Nos.521 & 554 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON	:	07.07.202
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PRONOUNCED ON	:	08.11.202
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CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.Nos.521 & 554 of 2019
and C.M.P.Nos.3664 & 3670 of 2019

C.R.P.No.521 of 2019:

1) The South Indian Reddy Association,
Rep. By its President,
Bharathi Road, Cuddalore -1

2)The South India Reddy Association,
Rep. By its Secretary,
Bharathi Road, Cuddalore – 1

.. Petitioners / RR 2 & 3

Defendants 2 & 3

Versus

1) Srinivasan

2) Girija

.. Respondents / Plaintiffs

3) Rajapalani (died)

.. Respondents/ Defendant 1

C.R.P.No.554 of 2019:

The South India Reddy Association,
Rep. By its Secretary,
Bharathi Road, Cuddalore – 1

.. Petitioner/ R-6/



C.R.P.Nos.521 & 554 of 2019

6th Defendant

Versus

- 1) R. Surya
- 2) R.Chandra

.. Respondents/Plaintiffs

Rajapalani (Died)

3)Janagalakshmi

4) P.Girija

5) R.Srinivasan

6) Minor Sowmya

Rep. by her mother R.Radha

.. Respondents/ RR 1-5/
Defendants 3 to 6

COMMON PRAYER: Civil Revisions Petition filed under Article 227 of the Constitution of India against the fair and decretal orders dated 14.12.2018 passed in I.A.Nos.254 & 255 of 2018 in O.S.Nos.88 & 118 of 2011 on the file of the learned Principal District Judge at Cuddalore.

In both cases:

For Petitioners : Mr.N.Ramesh

For RR 1 & 2 : No Appearance

COMMON ORDER

These Civil Revision Petitions are filed against the fair and decretal orders dated 14.12.2018 passed in I.A.Nos.254 & 255 of 2018 in O.S.Nos.88 & 118 of 2011 on the file of the learned Principal District



C.R.P.Nos.521 & 554 of 2019

Judge at Cuddalore.

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2. Since the issue involved in both the Civil Revision Petitions are one and the same, they are disposed of by this common order.

3. Brief facts of the case, that are necessary for the disposal of the civil revision petitions, are as follows:-

(i) With regard to C.R.P.No.521 of 2019, the respondents 1 and 2, have filed a suit in O.S.No.88 of 2011 on the file of the Principal District Judge at Cuddalore, seeking for partition of 2/3rd share in the schedule mentioned property; declaration declaring that the Compromise Decree, dated 14.08.1997 in S.A.No.414 of 1987 as null and void; for appointment of an Advocate Commissioner to effect such division; and to hand over possession of the same to the plaintiffs.

(ii) Pending suit, I.A.No.254 of 2018 was filed by the second plaintiff/second respondent herein for appointment of an Advocate Commissioner to note down the physical features of the site. The Court below after hearing the parties, had allowed the said application vide



C.R.P.Nos.521 & 554 of 2019

order, dated 14.12.2018. Challenging the said order, the aggrieved respondents 2 and 3 in I.A.No.254 of 2018, have approached this Court by way of filing the present civil revision petition.

(iii) With regard to C.R.P.No.554 of 2019, the respondents R1 and R2, have filed a suit in O.S.No.118 of 2011 on the file of the Principal District Judge, Cuddalore, seeking for partition. Pending suit, the plaintiffs filed an application in I.A.No.255 of 2018 for appointing an Advocate Commissioner for the purpose of noting down the physical features of the site. The Court below, after hearing both sides, had allowed the said application vide order, dated 14.12.2018. Challenging the said order, the sixth respondent therein in I.A.No.255 of 2018, has filed the present civil revision petition.

4. The learned counsel for the revision petitioners would submit that the suit in O.S.No.88 of 2011 on the file of the Principal District Judge at Cuddalore, has been filed to set aside the Compromise Decree dated 14.08.1997 in S.A.No.414 of 1997 and therefore, when the compromise decree, is set aside, the plaintiffs can claim their share and



C.R.P.Nos.521 & 554 of 2019

they can work-out their remedy only in the final decree proceedings as per preliminary decree and allowing of applications in I.A.Nos.254 & 255 of 2018, would cause serious prejudice to the petitioners. However, the Court below without considering the same, allowed the applications for appointment of Advocate Commissioner. Therefore, the orders passed by the Court below are liable to be set aside.

5. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

6. It is an admitted fact that the suit in O.S.No.88 of 2011 has been filed to set aside the Compromise Decree, dated 14.08.1997, as null and void. If at all the plaintiffs are entitled for the share, they can claim the same only if the above said compromise decree, is set aside. The apprehension of the petitioners that many buildings have come out in the subject property after filing of the suit, cannot be considered as a valid reason for the appointment of an Advocate Commissioner. In that view of the matter, the orders passed the Court below are liable to be interfered



C.R.P.Nos.521 & 554 of 2019

with.

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7. In the result, these Civil Revision Petitions are Allowed and the order passed by the learned Principal District Judge at Cuddalore in I.A.Nos.254 & 255 of 2018 in O.S.Nos.88 & 118 of 2011 vide orders dated 14.12.2018, are hereby set aside. No costs. Consequently, connected miscellaneous petitions are closed.

08.11.2022

Index : Yes / No

Internet : Yes

sts/pm

To:

- 1) The Principal District Judge, Cuddalore.
- 2) The Section Officer, V.R.Section, High Court, Madras.



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C.R.P.Nos.521 & 554 of 2019

J.NISHA BANU, J.,

sts/pm

Common Order made in
C.R.P.Nos.521 & 554 of 2019

Dated:
08.11.2022