



CRP.(PD).No.624/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP.(PD)No.624 of 2022 and
C.M.P.No.3234 of 2022

K.Shanmugam

S/o.Late Kandasamy

...Petitioner/Appellant/Petitioner in C.R.P.

Vs

1.Ponnuvel

2.Sivaprakasam @ Kumar

3.Sekar

4.Nallusamy

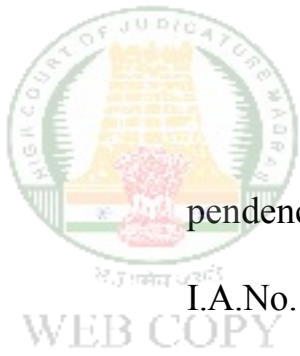
...Respondents/Respondents in C.R.P.

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order dated 02.12.2021, passed in I.A.No.1 of 2021 in A.S.No. 50 of 2010 on the file of the Court of the Principal Sub-Ordinate Judge Salem.

For Petitioner : Mr.P.Ganesan

ORDER

In a suit for declaration of right over the cart track, the defendant has challenged the decree passed therein, in A.S.No.50 of 2010. This appeal is now pending before the Principal Subordinate Court, Salem. During the



pendency of this appeal, the appellant has taken out an application in I.A.No.1 of 2021 to appoint a commissioner to note down the physical feature and assess the cart track to reach the suit property. This is rejected by the 1st appellate Court and hence, the 6th defendant has approached this Court in this Revision.

2. Heard the learned counsel for the revision petitioner.

3. The learned 1st Appellate Judge has reasoned in his order that earlier a Commissioner came to be appointed at the instance of the plaintiff/respondent before the trial Court, and that the present appellant/6th defendant did not raise any objection to the said commissioner's report.

- earlier before the 1st appellate Court, the 6th defendant has taken out an application in I.A.No.114 of 2021 for identical purpose that he now attempts and that came to be dismissed. He then moved this Court in CRP No. 1390 of 2011 which also came to dismissed. This issue having been once closed cannot be revived by another attempt at the latter stage in the same appeal.



CRP.(PD).No.624/2022

4.This Court is now in absolute concurrence in the line of reasoning of the 1st appellate Court and hence it does not find any reason to interfere with the same.

5.Having stated thus, this Court is shocked to see that this 1st appeal is pending for 12 years and therefore, this Court urges the 1st Appellate Court to dispose of this appeal within the short span of time possible. This Court therefore directs the 1st Appellate Court to dispose of this appeal on or before 30.04.2022.

6.With the above direction, this Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

08.03.2022

Index : Yes/No
Speaking Order/Non Speaking Order
msv/dk

Note:Office to issue order copy on 09.03.2022.



CRP.(PD).No.624/2022

To

The Principal Sub-Ordinate Judge,
Salem.

WEB COPY

N.SESHASAYEE, J.,



WEB COPY



CRP.(PD).No.624/2022

msv/dk

CRP.(PD)No.624 of 2022 &
C.M.P.No.3234 of 2022

08.03.2022