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C.R.P.PD.No.1415 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.PD.No.1415 of 2015
and M.P.No.1 of 2015

Alamelu (Died)

Sumathi

... Petitioner

Vs.

S.Ramakrishnan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order passed by the learned District Munsif Court, at Jeyankondam made in I.A.No.869 of 2013 in O.S.No.73 of 2007 dated 08.04.2014 and further direct the trial Court to reissue warrant for appointing the advocate commissioner along with qualified surveyor in the subject matter of the suit property.

For Petitioner : Mr.D.Veerasekaran

For Respondent : Mr.M.R.Elavarasan
for M/s.K.Balu

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ORDER

This Civil Revision Petition has been filed to set aside the order passed by the learned District Munsif Court, at Jeyankondam made in I.A.No.869 of 2013 in O.S.No.73 of 2007 dated 08.04.2014 and further direct the trial Court to reissue warrant for appointing the advocate commissioner along with qualified surveyor in the subject matter of the suit property.

2. It is the case of the petitioner that one Mrs.Kannagi, Advocate, was appointed as Advocate Commissioner by the trial Court to locate, measure and prepare a rough sketch of the suit properties and submit a report. However, since the report filed by the said Advocate Commissioner had some defects, the petitioner filed I.A.No.869 of 2013 in O.S.No.73 of 2007 to re-issue the warrant and appoint a Senior Advocate as Commissioner to identify, locate, measure and prepare a rough sketch of the suit properties and submit a report in this regard.



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3. The learned counsel for the petitioner relied upon the judgment reported in **2014 (1) TNLJ 484**, wherein, it is clearly indicated that "*if there is any doubt about the area of land identification or location of an object then local investigation is necessary*" and therefore, he would pray for appointing commissioner along with the surveyor, which was dismissed by the Court below vide order dated 08.04.2014 in I.A.No.869 of 2013 in O.S.No.73 of 2007. Aggrieved by the order of dismissal, the petitioner has preferred the present Civil Revision Petition.

4. The learned counsel for the respondent has no objection for allowing this petition for appointing an Advocate Commissioner along with the Surveyor.

5. In view of the ratio laid in the judgment reported in **2014 (1) TNLJ 484** and the fact that the learned counsel for the respondent has also got no objection for appointing an Advocate Commissioner along with qualified Surveyor, this Court directs the learned Judge for issuance of



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warrant to the Advocate Commissioner, along with Surveyor and to file a final report within a period of one month from the date of receipt of a copy of this order. The learned Judge may take into consideration and re-issue the warrant to the same Advocate Commissioner, Mrs.Kannagi, and the property may be inspected along with local Surveyor.

6. Accordingly, the Civil Revision Petition is allowed.

No Costs. Consequently connected miscellaneous petition is closed.

04.04.2022

ab/msv

Note: Issue order copy on or before 11.04.2022.

To

The District Munsif Court, Jeyankondam



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J.NISHA BANU,J.

msv

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