



CRP.No.1161 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.1161 of 2019
and CMP.No.7462 of 2019

1.Lakshmi Narayanan(died)

2.Vasanthi

3.Nivethini

4.Vinothini

(petitioners 2 to 4 brought on record as LR's of
the deceased first petitioner i.e. Lakshmi Narayanan
vide court order dated 06.01.2022 made in
CMP.No.24 of 2022 in CRP.No.1161 of 2019)

... Petitioners

Vs.

1.Sumathi

2.Subramanian

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of the
Constitution of India to set aside the fair and decretal order of the learned II
Additional District Munsif, Virudhachalam dated 19.02.2019 passed in
IA.No.604 of 2017 in OS.No.338 of 2013.

For Petitioners : Mr.J.Antony Jesus

For Respondents : Mr.R.Murugabharathi

ORDER

This civil revision petition has been filed to set aside the fair and
decretal order of the learned II Additional District Munsif, Virudhachalam



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dated 19.02.2019 passed in IA.No.604 of 2017 in OS.No.338 of 2013, thereby dismissed the petition seeking appointment of advocate commissioner.

2. Heard, the learned counsel for the petitioners and the learned counsel for the respondents.

3. The petitioners are the plaintiffs and the respondents are the defendants. The first petitioner filed suit for declaration and injunction. While pending the suit, the first petitioner filed application for appointment of advocate commissioner and the same was allowed. After receipt of the advocate commissioner's report, again the petitioner filed application for seeking appointment of advocate commissioner to measure the northern side of the suit property. It was also allowed and appointed one, R.Ramanujam as advocate commissioner. He was directed to measure the suit property and file report within a period of two months. However, the Advocate Commissioner informed before the trial court that the plaintiff is his relative and therefore, he could not execute the warrant as directed by the trial court. However, on receipt of the memo, the trial court dismissed the petition for appointment of advocate commissioner itself for the reason that the Advocate Commissioner



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or the plaintiff failed to inform the trial court about their relationship in the early stage. Once the trial court allowed the petition to appoint advocate commissioner, it cannot be rejected on the ground that the Advocate Commissioner failed to inform in the earlier stage of the suit about the relationship between the Advocate Commissioner and the plaintiff.

4. In view of the above, the fair and decretal order of the learned II Additional District Munsif, Virudhachalam dated 19.02.2019 passed in IA.No.604 of 2017 in OS.No.338 of 2013 are set aside and this civil revision petition is allowed. The court below is directed to appoint a new Advocate Commissioner and on receipt of the report of the Advocate Commissioner, the court below is directed to dispose of the suit in OS.No.338 of 2013 within a period of six months thereafter. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

21.12.2022

Index :Yes/No
Internet : Yes/No
Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To
The learned II Additional District Munsif,
Virudhachalam

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