



CRP No.3542 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.3542 of 2016
and CMP.No.18036 of 2016

P.E.Mohamed Basheer

..Petitioner

Vs.

Abdul Jameel (Deceased)
Abdul Jaleel (Deceased)
Mohamed Ayub (Deceased)

- 1.Vajihulla
- 2.Bijir Rahman
- 3.Junaitha
- 4.Nazar
- 5.Najimudheen
- 6.Muhibulla
- 7.Sahira Banu
- 8.Mohamed Arief
- 9.Mohamed Ravuf
- 10.Sakirabegum
- 11.Mijajunusa
- 12.Rabiyath bress
- 13.Samsul Hutha
- 14.Jeenathunnisa
- 15.Navarannisa
- 16.Baijur Rahman
- 17.Tajudeen
- 18.Nizar
- 19.Mijajunnisa
- 20.Raja Rasheth @ Samathu
- 21.Yasir
- 22.Minor Bayas

..Respondents



CRP No.3542 of 2016

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated in I.A.No.119 of 2016 in O.S.No.284 of 2000 dated 18.07.2016 on the file of the District Munsif cum Judicial Magistrate, Kattumannarkoil.

For Petitioner : Mr.A.Muthukumar

For Respondents

For R1 : Mr.A.Murugan

For R2 to 22 : No appearance

ORDER

The Civil Revision Petition has been filed as against the fair and decreetal order dated 18.07.2016 passed in I.A.No.119 of 2016 in O.S.No.284 of 2000 on the file of the District Munsif cum Judicial Magistrate, Kattumannarkoil, thereby allowing the application filed for appointment of an Advocate Commissioner.

2. The petitioners are the defendants and the respondents are the plaintiffs. The respondents filed a suit for permanent injunction in respect of the suit property. After completion of both side evidences, the respondents filed a petition to re-open and re-call DW3 to mark the sale deeds which were executed by the petitioners on 10.07.1977, 29.05.1979, 16.07.1981, 12.04.1982,



04.02.1983 and 03.11.1983. Both the applications were allowed and while pending for cross examination of DW3, the respondents filed a petition to appoint an Advocate Commissioner on the ground that the proposed documents to be marked by the respondents are completely different from the suit property and those properties were situated 1 km away from the suit property. That apart, the respondents are raising a dispute in respect of the identity of the property. Therefore, it would be appropriate to appoint an Advocate Commissioner to inspect the suit property to find out its identity and location. The said application was allowed. Aggrieved by the same, the present civil revision petition.

3. It is seen from the records that admittedly, the respondents filed an application to re-open and re-call DW3 to mark above said documents. After allowing the said petition, immediately the petitioners filed an application to appoint an Advocate Commissioner to find out the suit property as well as the property contained in the documents which were going to be marked by the respondents. If at all there is any grievance in respect of the documents which are going to be marked by the respondent, the petitioners can very well agitate the same during cross examination. Every document should contain the description of the properties. Therefore, the Court can easily identify the suit



CRP No.3542 of 2016

property as well as the property contained in the documents which are going to be marked before the Court below. Therefore, to locate the property, the documents which are going to be marked by the respondents are enough. The Advocate Commissioner cannot be appointed since it is not even the case of the petitioner that those documents are marked before the Court below.

4. In view of the above, the order dated 18.07.2016 passed in I.A.No.119 of 2016 in O.S.No.284 of 2000 on the file of the District Munsif cum Judicial Magistrate, Kattumannarkoil, is hereby set aside.

5. Accordingly, the civil revision petition stands allowed. The trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order, if not already disposed of. No costs. Consequently, connected miscellaneous petition is closed.

16.12.2022

Speaking/Non-speaking order

Index : Yes/No

ata

To

District Munsif cum Judicial Magistrate,
Kattumannarkoil.



WEB COPY



CRP No.3542 of 2016

G.K.ILANTHIRAIYAN.J.

ata

CRP.No.3542 of 2016

16.12.2022