



C.R.P.(PD)No.1992 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD)No.1992 of 2022

and

C.M.P.No.10224 of 2022

1.P.K.Chinnappan
2.Rajavivekanandan

... Petitioners

.. Vs..

- 1.The District Collector,
Erode District,
District Collectorate,
Sampath Nagar,
Erode – 638 011.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Gobichettipalayam,
Erode District – 638 452.
- 3.The Tahsildar,
Taluk Office,
Bhavani – 638 301.
- 4.The Village Administrative Officer,
Kavundhappadi Village,
Kavundhappadi,
Bhavani Taluk, Erode District.



C.R.P.(PD)No.1992 of 2022

5.The Sub Registrar,
Kavundhappadi,
Kavundhappadi – 638 455.

6.The President,
Kavundhappadi First Grade Village Panchayat,
Kavundhappadi,
Bhavani Taluk,
Erode District – 638 455.

7. Kesavarthini
8.Thangamani
9.Minor Sanjay
Rep.by his mother and guardian
Thangamani
10.Baby @ Rajeswari
11.Saraswathi
12.Vaitheeswaran
13.Palaniammal
14.Prathiba
15.Sathishkumar

... Respondents

Prayer :- Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the order dated 01.10.2021 made in I.A.No.2 of 2020 in O.S.No.131 of 2020 on the file of the Principal District Munsif Court, Bhavani, Erode District and to allow the above I.A.

For Petitioners	: Mr.D.Selvaraju
For Respondents	: Mr.E.Vijayanand Additional Government Pleader for R1 to R5



C.R.P.(PD)No.1992 of 2022

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ORDER

This Civil Revision Petition has been preferred challenging the order dated 01.10.2021 made in I.A.No.2 of 2020 in O.S.No.131 of 2020 on the file of the Principal District Munsif Court, Bhavani, Erode District.

2. Heard the learned counsel for the petitioners and the learned Additional Government Pleader for the respondents 1 to 5 and also perused the materials available on record.

3. The revision petitioners are the plaintiffs, who filed the suit against the defendants seeking a direction to fix the boundaries of the suit property in terms of the Partition Deeds dated 10.06.1986 and 07.09.1986. During the pendency of the suit an application in I.A.No.2 of 2020 was filed for appointment of an Advocate Commissioner. The said application was dismissed. Aggrieved over that the petitioners have preferred this revision petition.

Page No.3/8



C.R.P.(PD)No.1992 of 2022

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4. The learned counsel for the petitioners submitted that during the pendency of the suit the private defendants 7 to 15 attempted to change the physical features of the property and hence, appointment of Commissioner was sought for to understand the real features of the property.

5. The learned trial Judge observed that in the suit filed by the plaintiffs, there is no allegation about the attempts to change the physical features and no relief also sought for. It is further observed that for the purpose of collecting funds no Commissioner can be appointed. This is the suit filed for fixing of the boundaries or in otherwise is a kind of mandatory injunction in which a direction was sought for fixing the boundaries in terms of the Partition Deeds dated 10.06.1986 and 17.09.1986. The contention of the learned counsel for the petitioners is that the Partition Deeds were not disputed by the either of the parties,



C.R.P.(PD)No.1992 of 2022

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but, however, the problem was with regard to the attempts made by the parties to change the physical features of the suit property.

6. In that cases, it will be appropriate for the plaintiffs to amend the pleadings in terms of subsequent cause of action and seek for appropriate reliefs. Without pleadings, the Commissioner cannot be appointed for collecting evidence.

7. Hence, I do not find any reason to interfere with the order of the learned trial Judge. However, it is open to the petitioner to file an appropriate application to amend the pleadings for appropriate prayers, if the cause of action is not barred by limitation.

8. In the result, this Civil Revision Petition is dismissed and the fair and decreetal order dated 01.10.2021 passed in I.A.No.2 of 2020 in



C.R.P.(PD)No.1992 of 2022

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O.S.No.131 of 2020 by the learned Principal District Munsif, Bhavani, Erode District is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

30.06.2022

Index: Yes No
Speaking Order: Yes/No
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To

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C.R.P.(PD)No.1992 of 2022

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C.R.P.(PD)No.1992 of 2022

R.N.MANJULA, J.

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