



Rev.Appl.No.209 of 2021
and CRP.PD.No.3224 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM

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

Rev.Appl.No.209 of 2021
in
CRP.PD.No.3224 of 2018

S.Natarajan

.... Petitioner

Vs

Ayyasamy (died)

1. The Corporation of Madras
Represented by its Commissioner,
Rippon Buildings,
Park Town, Chennai – 600 003.

2. Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan Maligai,
Gandhi-Irwin Road,
Egmore, Chennai – 600 008.

3. A.Lakshmi,
W/o.Late Ayyasamy

4. A. Ganesh
S/o.Late Ayyasamy

5. Vijhee Subramanian,
D/o.Late Ayyasamy

.... Respondents



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Prayer : Review Application filed under Order 47 Rule 1 of CPC read with Section 114 of CPC to review the order dated 23.06.2021 passed in CRP (PD) No.3224 of 2018.

For Petitioner	: Mr.P.Jagadeesan for Mr.P.Dinesh Kumar
For R1	: Mr.D.B.R.Prabhu, Standing Counsel
For R2	: Mr.C.N.Vinobha Standing Counsel for CMDA
For R3 to R5	: Mr.S.Vijaya Kumar

ORDER

This Review Application has been filed to review the order dated 23.06.2021 made in CRP (PD) No.3224 of 2018, thereby dismissing the Civil Revision Petition.

2. The Civil Revision Petition in CRP No.3224 of 2018 has been filed as against the order passed in I.A.No.9437 of 2015 in O.S.No.6878 of 2013 dated 21.06.2017, thereby dismissing the petition for re-issuance of warrant to the advocate commissioner to revisit the suit property with the help of the surveyor for measurement.



3. The learned counsel appearing for the petitioner would submit that this Court dismissed the civil revision petition on the ground that a perusal of the advocate commissioner's report revealed that he had drawn plan to show the exact location with measurements and four boundaries. He also pointed out the portion which is encroached by the first defendant/deceased. Therefore, there is absolutely no need to re-issue warrant to the advocate commissioner for the purpose of re-inspection with the help of the surveyor. When the engineer assisted the advocate commissioner without the help of the surveyor, he could not have measured the property.

4. Admittedly, the advocate commissioner measured the property with the help of a chartered engineer, not with the help of surveyor. Therefore, if the advocate commissioner measures the property once again with the help of surveyor, it will solve the entire issue arising in the suit.

5. The learned counsel appearing for the respondents would submit that the engineer, who assisted the advocate commissioner to survey the property, is a registered engineer and registered surveyor. Therefore, there is no need to issue any fresh warrant to re-inspect the property.



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6. A perusal of the records reveals that the advocate commissioner measured the property only with the help of chartered engineer and not with the help of surveyor. Therefore, there is an error apparent on the face of the order and as such, this Court is inclined to review the order passed by this Court.

7. In view of the above, the order dated 23.06.2021 passed by this Court in CRP.PD.No.3224 of 2018 is recalled and the same is hereby set aside. It is made clear that the advocate commissioner is directed to measure the suit property with the help of surveyor and file a report. On receipt of the same, the Trial Court is directed to dispose of the suit within a period of six months from the date of receipt of the report. On payment of necessary cost by the petitioner, the entire process shall be videographed and shall be submitted in Court along with the report.

8. In the result, this Review Application stands allowed.

11.11.2022

Index : Yes/No
Internet : Yes/No
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G.K.ILANTHIRAIYAN,J.

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