



C.R.P.No.4628 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 15.12.2022

CORAM

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

C.R.P.No.4628 of 2014

1. Chinnasamy Reddiyar
Rep. by his Power Agent
Sekar
2. Selvaraj
Rep. by his Power Agent
Balakrishnan
3. Sekar

... Petitioners

Vs.

1. Nallammal (Died)
2. Mullai Nathan
3. Senthilnathan
4. Arul
5. Venkatesan
(R2 to R5 brought on record as LR's
of the deceased sole respondent
viz., Nallammal vide Court order
dated 18.12.2022 made in C.M.P.
Nos.2349, 2351 & 2353 of 2020
in C.R.No.No.4328 of 2014)

... Respondents



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Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair order and decretal order in I.A.No.240 of 2006 in O.S.No.319 of 2002 on the file of the learned Principal Subordinate Judge, Virudhachalam, dated 18.07.2013.

For Petitioner : Mr.V.Raghavachari
For Respondents
R1 : Died
For R2 to R5 : Mr.J.Antony Jesus

ORDER

This Civil Revision Petition has been filed as against the judgment and decree order dated 18.07.2013, passed by the learned Principal Subordinate Judge, Virudhachalam, in I.A.No.240 of 2006 in O.S.No.319 of 2002, thereby appointing an Advocate Commissioner to divide the property as per the preliminary decree passed in O.S.No.319 of 2002.

2. The petitioners are the defendants in the suit filed by the deceased first respondent in O.S.No.319 of 2002 for partition. The said suit was decreed and aggrieved by the same, the petitioners preferred an appeal suit in A.S.No.5 of 2004 on the file of the Additional District Court, Virudhachalam. However, it was subsequently withdrawn by an order dated



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19.01.2005. In pursuant to the order passed in the appeal suit, the deceased respondent filed application for final decree to appoint Advocate Commissioner to divide the property in I.A.No.240 of 2006. The Court below allowed the same and appointed the Advocate Commissioner by an order dated 20.12.2010.

3. Aggrieved by the same, the first petitioner filed the Civil Revision Petition before this Court in C.R.P.No.2215 of 2011 and this Court by an order dated 02.04.2013, set aside the order dated 20.12.2010, passed in I.A.No.240 of 2006 and remitted back to the trial Court with direction to dispose the same after affording sufficient opportunity to both sides. As directed by this Court, after giving opportunity to the parties concerned, the trial Court allowed the application in I.A.No.240 of 2006 and confirmed the earlier order dated 22.12.2010, as against which the present Civil Revision petition.

4. Heard Mr.V.Raghavachari, learned counsel appearing for the



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petitioner and Mr.J.Antony Jesus, learned counsel appearing for the respondents 2 to 5.

5. The deceased first respondent filed suit in O.S.No.319 of 2002 as against the petitioners for partition. The said suit was decreed and as against which the petitioners filed appeal suit in A.S.No.5 of 2004. Subsequently, the petitioners withdraw the said appeal and the decree passed in the O.S.No.319 of 2002 has become final.

6. In the meanwhile, the petitioners filed suit in O.S.No.149 of 2006 on the file of the learned Principal Subordinate Judge, Virudhachalam, for declaration and injunction in respect of the very same suit property and also declaration declaring that the judgment and decree passed in the partition suit in O.S.No.319 of 2006 is null and void and the said suit is pending.

7. It is also seen that already the Advocate Commissioner was appointed by an order dated 20.12.2010 and as against which the first



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petitioner filed Civil Revision Petition in C.R.P.No.2215 of 2011 and this Court by an order dated 02.04.2013, remitted back to the trial Court for fresh disposal. Thereafter, the trial Court after giving opportunity to the parties concerned, allowed the application in I.A.No.240 of 2006, thereby confirming the earlier order dated 22.12.2010. Considering the above facts, this Court finds no infirmity or illegality in the order passed by the Court below.

8. Accordingly, the Civil Revision Petition stands dismissed. There shall be no order as to costs.

15.12.2022

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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G.K.ILANTHIRAIYAN, J.

rts

To

1. The Principal Subordinate Judge,
Virudhachalam.

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15.12.2022