



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2060 of 2011
and
M.P(MD)Nos.1 to 3 of 2015

1.Ramakrishnan (Died)
2.Chellayyan
3.Thankayyan

... Petitioners/Respondents-Judgment
Debtors/Defendants 1 to 3

4.Rajammal
5.Leela Bai
6.Retna Bai
7.Krishnasamy
8.Ravikumar
9.Murugan
10.Manikandan
11.Sivadas
12.Chandra Sekar

... Proposed Petitioners

(Petitioners 4 to 12 are brought on record as
legal heirs of the deceased 1st Appellant, vide
Court order, dated, 13.12.2013 made in M.P(MD)
Nos.1 to 3 of 2013)

Vs.

1.Gopalakrishnan Nair
2.Sukumaran Nair
3.Chandrasekharan Nair
4.Sankaran Nair
5.Lekshmi Amma

... Respondents/Petitioners-Decree
holders/Plaintiffs

6.Jerald Peterson Rose
7.Anin Rajakumar

(Respondents 6 and 7 are impleaded, vide court
order, dated, 20.12.2021 made in M.P(MD)No.1 of
2014)

PRAYER : Civil Revision Petition is filed under Article 227 of
Constitution of India as against the fair and decreetal order,
passed in E.P.No.109 of 2005 in O.S.No.377 of 1997, dated,
19.04.2011 on the file of the Principal District Munsif,
Kuzhithurai.

<https://hcservices.ecourts.gov.in/hcservices/>



For Petitioners : Mr.P.Muthukumar
for Mr.K.Sreekumaran nair

For Respondents : Mr.K.N.Thambi
for R1,R3,R5 to R7

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ORDER

The respondents herein filed O.S.No.377 of 1997 before Principal District Munsif Court, Kuzhithurai for the relief of declaration of title and permanent injunction over 'A' schedule property and for declaration of title and recovery of possession over 'B' schedule property.

2. According to the plaintiffs, 'B' schedule property is forming part of 'A' schedule property. Both 'A' and 'B' schedule properties are in survey No.85/1B. Further according to the plaintiffs, the defendants' property is located on the western side, which is having Survey No.85/1A. The plaintiffs have further prayed for demarcation of boundary within 85/1B and 85/1A. The suit was decreed as prayed for. Thereafter, the plaintiff filed E.P.No.109 of 2005, in which, a Commissioner was appointed and he has filed report and plan. The Commissioner has executed the warrant and he has demarcated the western boundary of Survey No.85/1B. For the said report and plan, an objection was filed by the defendants. The Executing Court rejected the objection made on the side of the defendants and proceeded to record the Commissioner's report and terminated the execution proceedings. Challenging the said order, this present revision petition has been filed.

3. The learned counsel for the petitioners contended that at the time of demarcation, the Commissioner has not properly measured the suit schedule properties and the defendants have lost 3 cents at the time of demarcation exercise conducted by the Commissioner. However, a reading of the grounds and the Commissioner's report indicate that he has only demarcated the western boundary on Survey Nos.85/1A and 85/1B. In case, if the defendants have got any grievance that they have got lesser extent, they have to work out their remedies as against the third parties. As far as the present case is concerned, the Commissioner has correctly measured the suit schedule property and demarcated the boundary lines between Survey Nos.85/1A and 85/1B. It is not the case of the defendants that the Commissioner has carved out some portion of 85/1A. Such being the case of the defendants, I do not find any grounds to interfere with the confirmation of the Commissioner's report and plan by the Executing Court. There are no merits in this revision petition.



4. Accordingly, this Civil Revision Petition stands dismissed.
No costs. Consequently, connected Miscellaneous Petitions are
closed.

Sd/-

Assistant Registrar (RTI)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Principal District Munsif,
Kuzhithurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.N. THAMPI, Advocate (SR-17851[F] dated 11/04/2022)

C.R.P (MD) No.2060 of 2011
08.04.2022

SRR (CO)
KB (29.04.2022) 3P 5C