



WEB COPY

C.R.P(MD)No.1177 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM

THE HON'BLE MRS.JUSTICE S.ANANTHI

C.R.P (MD)No.1177 of 2020

and

C.M.P (MD)No.7486 of 2020

Pappa

... Petitioner/1st Respondent

Vs.

1.P.Parvathi

...1stRespondent/Appellant

2.Thangapushpam @ Esthar Pappa

3.Abraham Nadar

...2 & 3 Respondents/

2 & 3 Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition by setting aside the fair order and decreetal order passed in I.A.No.1 of 2019 in A.S.No.72 of 2018, dated 01.09.2020 on the file of the Additional Sub Court, Tirunelveli.

For Petitioner : Mr.M.Sengu Vijay

For Respondents : Mr.S.Suresh Manickam

ORDER

The Civil Revision Petition has been filed to set aside the fair order and decreetal order passed in I.A.No.1 of 2019 in A.S.No.72 of 2018, dated 01.09.2020 on the file of the Additional Sub Court, Tirunelveli.

2.I.A.No.1 of 2019 was filed by the first respondent/petitioner under Order 26 Rule 9 and Section 151 of CPC, to appoint a Commissioner for inspecting the suit property, which was allowed by the learned Additional Subordinate Judge, Tirunelveli. Aggrieve by the said order, the revision petitioner has filed this Civil Revision Petition.

3.A perusal of records would show that in suit, already the Commissioner was appointed and he has filed a report with the help of Surveyor. The first respondent/petitioner has also filed an objection to the Commissioner's report. There is no specific objection to the Commissioner's Report and now, she filed I.A.No.1 of 2019, to appoint a Commissioner and also re-measure the property. Since there is no serious objection to the Commissioner's report, the respondent cannot seek an appointment of Commissioner. The

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Commissioner has already surveyed the land with the help of surveyor. Therefore, without any specific objection, Advocate Commissioner cannot be appointed. Now, the respondents argued that there is no reason to re-issue the Commissioner Warrant.

4. In view of the above, this Civil Revision Petition is allowed and the order passed in I.A.No.1 of 2019 in A.S.No.72 of 2018, dated 01.09.2020 on the file of the Additional Sub Court, Tirunelveli, is hereby set aside. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

To

The Additional Sub Judge,
Tirunelveli.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-13997[F] dated 24/03/2022)

+1 CC to M/s.M.SENGU VIJAY, Advocate (SR-14165[F] dated 24/03/2022)

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RD(18.04.2022) 2P 4C