



CRP (MD) No.2182 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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N.Gurusamy (died)

G.Rajammal

... Petitioner

Vs

1.Government of Tamil Nau,
(through its District Collector),
Thoothukudi.

2.The Tasildhar,
Taluk Office,
Kovilpatti.

3.Balasundaram

4.Thamotharan

5.Renuka

6.Dhanalakshmi

7.Murugaveni

8.G.Vijayaragavan

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 22.06.2022 in IA.No.75 of 2022 in OS.No.297 of 2009 on the file of the District Munsif Court, Kovilpatti by allowing this civil revision petition.



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For Petitioner : Mr.V.Meenakshisundaram
For Respondent : Mr.M.Sarangam,
Additional Government Pleader

ORDER

This civil revision petition is filed as against the fair and decreetal order passed in IA.No.75 of 2022 in OS.No.297 of 2009 on the file of the District Munsif Court, Kovilpatti.

2.The suit in OS.No.297 of 2009 was filed for declaration and partition. While so, the petitioner/ 2nd plaintiff has filed an application in IA.No.75 of 2022 for appointment of advocate commissioner to establish that there was water body over the suit property. The said application was dismissed by the trial Court that the suit was filed in the year 2009 and this application is filed in the year 2022. The physical features of the water body may not be similar now, as it was in the year 2009 and the petitioner is at liberty to establish his case through the documents.



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3. The learned Counsel for the petitioner submits that the petitioner and two others have filed the above suit in OS.No.297 of 2009, for declaration and permanent injunction as against the defendants. Except the Government all other defendants remained ex-parte. The contesting respondent the District Collector has filed a written statement that the subject property is a water body, but the document produced by them would disclose that it is classified as poramboke. Two different stands have been taken by the contesting respondents. Therefore, to find out the physical features of the suit property the appointment of advocate commissioner is necessary. However, the trial Court without considering these aspects has dismissed the said petition.

4. Heard the learned Counsel on either side and perused the materials placed on record.

5. The suit was filed in the year 2009 and this application for appointment of advocate commissioner is filed in the year 2022. The trial Court while dismissing the application has observed that there is no necessity for appointment of advocate commissioner and the petitioner can



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establish his case through the documents. This Court is of the view that there is no reason to interfere with the orders of the trial Court and it is always open to the petitioner to establish his case through the documents. Therefore, this civil revision petition stands dismissed. No costs. Consequently connected miscellaneous petition also stands dismissed. However the suit is of the year 2009, the trial Court shall dispose of the suit as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

02.11.2022

dsk

To

The District Munsif Court,
Kovilpatti.



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B. PUGALENDHI, J.

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