



CRP(MD)No.2310 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2022

CORAM:

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

CRP (MD) No.2310 of 2022

and

CMP (MD) No.11128 of 2022

Pounmani (Died)

1.C.Vijayaraja

2.S.Sandeep

: Petitioners

Vs.

E.Malathi (Died)

1.V.Easwaran

2.E.Maheshwaran

3.E.Sathishkumar

Gandhiammal (Died)

4.C.Latha

5.Raja

6.C.Venkateshwari

7.C.Suganya



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8.M.Ramesh

9.K.Bothumani

10.A.Arulmozhi

11.Karthika

12.C.Malarvizhi

13.K.Kayalvizhi

S.Chinnathai (Died)

Ochammal (Died)

14.K.Kavitha

15.Prabavathi

16.Minor M.Lathika

17.Minor M.Hariharan

18.Karthikeyan

19.Latha

20.S.Jeyakodi

21.S.Sivaraman

22.M.Chitra

23.S.Lakshmipriya

24.D.Umadevi

25.C.Sangeetha



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26.S.Rathinam

27.K.Sevika

: Respondents

[Minor Respondents 16 & 17 are represented through their mother / natural guardian, R.15]

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to the fair and decreetal order dated 14.09.2022, made in I.A.No.2 of 2022 in I.A.No.1 of 2021 in O.S.No.354 of 2021, on the file of the Sub Court, Uthamapalayam and set aside the same.

For Petitioners : Mr.V.S.Kishok Kumar

For Respondents : Mr.V.Easwaran

Party-in-person - R.1

Mr.R.Senthilkumar

for R.2, R.3

ORDER

The petitioners' fathers are some of the defendants in the suit in O.S.No.354 of 2021. The suit was originally filed in the year 1985 for partition, before the Sub Court, Periyakulam. The suit was decreed partly on 24.04.1992. The appeal preferred in A.S.No.57 of



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1993 was dismissed by the learned Principal District Judge, Madurai, by judgment dated 13.09.1996. Challenging the same, second appeal was filed before this Court in S.A.No.1773 of 1996 and the same was dismissed as abated.

2.Final decree application came to be filed on 22.12.2014, wherein, an Advocate Commissioner was appointed. The Advocate Commissioner submitted his report on 18.12.2019, for which, the petitioners have filed their objections. They have also filed an interlocutory application in I.A.No.2 of 2022 to scrap the Advocate Commissioner's report. The said application was dismissed by the learned Subordinate Judge, Uthamapalayam, by order dated 14.09.2022 and challenging the same, the present revision petition is filed.

3.Learned Counsel for the petitioners submitted that the final decree application has been filed by the



respondents by including the properties of some third parties and the learned Advocate Commissioner has referred the same in his report. These properties, according to the petitioners, are not the properties belonging to their family. The suit is for partition amongst the family members. If the final decree is passed based on these materials, it would not be proper and therefore, they have filed the application to scrap the Advocate Commissioner's report. However, the same was dismissed by the trial Court.

4.This Court paid it's anxious consideration to the submissions made by the petitioners' Counsel.

5.The grievance of the petitioners is that some of the properties mentioned in the final decree application are not the properties of the petitioners' family and that if these properties are allotted in the final decree proceedings, they would be put to grave and irreparable loss. Therefore, they moved an



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B. PUGALENDHI, J.

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application to scrap the Advocate Commissioner's report.

6.This Court is not inclined to accept the said submission. The trial Court would pass appropriate orders based on the available materials and depending upon the rights of the parties, after taking note of the Advocate Commissioner's report, in accordance with law. Therefore, this Court is not inclined to entertain this revision petition.

Accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

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Internet : Yes

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To
The Subordinate Judge,
Uthamapalayam.

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