



C.R.P. No. 2364 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2364 of 2023

and

C.M.P.No.14615 of 2023

Saradha

...Petitioner

.Vs.

1. Mohan

2. Palanisamy

3. Narayanan

4. Settu

5. Shanmugham

6. Siddesh

7. Moorthi

8. Thangaraj

9. Thiruvannamalai

...Respondents

1/5



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Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow the above C.R.P to set aside the fair order and decretal order dated 14.02.2023 passed by the learned II Additional District Munsif, Salem in I.A.No.2 of 2023 in O.S.No.1385 of 2012 to allow the same and pass orders.

For Petitioner : Mr.K. Ramanraj

ORDER

This petition is filed to allow the above Civil Revision Petition to set aside the fair order and decretal order dated 14.02.2023 passed by the learned II Additional District Munsif, Salem in I.A.No.2 of 2023 in O.S.No.1385 of 2012.

2. The facts of the case are that there was a dispute between the petitioner and the respondents with regard to the usage of 10 feet width road which is adjacent to the subject property. Hence, the petitioner herein filed



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O.S.No.1385 of 2012 and when the same was pending, the petitioner filed an I.A.No.108 of 2019 in O.S.No.1385 of 2012 for appointment of an Advocate Commissioner to demarcate the subject property and the same was dismissed vide order dated 02.11.2022 as there was no representation for Advocate Commissioner. Hence, the petitioner filed I.A.No.2 of 2023 to set aside the order of dismissal of I.A.No.108 of 2019 in O.S.No.1385 of 2012, which was also dismissed vide order dated 14.02.2023, which has given rise to this petition.

3. The learned counsel for the petitioner submitted that when I.A.No.108 of 2019 in O.S.No.1385 of 2012 was filed, the Surveyor was not available and the Advocate Commissioner was unable to execute the warrant and further more the petitioner was suffering from health issues, hence, he was unable to take steps to proceed the case. Hence prays this Court to allow this petition.

4. On a perusal of the impugned order, it is seen that the learned Judge has made an observation that the petitioner has not stated any



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plausible reason for non representation on 02.11.2022 or the steps taken by her in executing the warrant issued to the Advocate Commissioner and the suit is also pending for more than 10 years, which finding is perfectly valid in the eye of law and the same does not require interference by this Court.

5. In view of the above, the order passed in I.A.No.2 of 2023 in O.S.No.1385 of 2012 by the learned II Additional District Munsif, Salem is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs. Consequently the connected miscellaneous petition is closed.

17.07.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The II Additional District Munsif, Salem



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V.BHAVANI SUBBAROYAN,J.
Smn

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