



C.R.P. No. 2407 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.07.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2407 of 2023

in

C.M.P.No.15076 of 2023

Babyammal

...Petitioners

.Vs.

Palaniyapillai

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order passed by the learned I Additional District Munsif, Kallakurichi made in I.A.No.1872 of 2022 in O.S.No.223 of 2010 dated 10.02.2023 and pass orders.

For Petitioner

: Mr. V. Gunasekar

ORDER



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This petition is filed to issue a direction to set aside the order and decreetal order passed by the learned I Additional District Munsif, Kallakurichi made in I.A.No.1872 of 2022 in O.S.No.223 of 2010 dated 10.02.2023.

2. The facts of the case is that the petitioner inherited the subject property from the ancestors and she has every right over the subject property. Whiles, the respondent trespassed into the suit scheduled property and constructed a house. Aggrieved over the illegal act of the respondent, the petitioner filed the suit in O.S.No.223 of 2010 before the Additional Distrit Munsif Court Kallakurichi. Pending suit the petitioner has filed an I.A. to appoint Advocate commissioner to inspect the property and the same was dismissed. Hence, this petition.

3. The learned counsel for the petitioner submitted that earlier an Advocate Commissioner was appointed on 11.06.2010 and 27.09.2011 and he also filed report, but the report filed by the Advocate commissioner does not reveal correct measurements and physical features of the suit scheduled



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property, specifically it does not reflect any particulars about the land wherein the respondent has constructed the house. He further submitted that the mere purpose of appointment of Advocate Commissioner, is that on the basis of the report submitted by him, it can be assessed, that whether subdivision made as per the revenue records and a comparison can be made with the documents available with the petitioner as well as respondents and there is any mutation in the revenue entries etc., In the absence of the particulars such as metes and bounds of the subject property the petitioner was unable to defend his case as to the demarcation made by the respondent is illegal.

4. In view of the above, this Court is inclined to grant one more opportunity to the petitioner to defend his case and the learned I Additional District Munsif, Kallakurichi is directed to take steps to demarcate the subject property once again before passing orders in the above suit.



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5. With the above directions, this Civil Revision Petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petition is closed.

19.07.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The I Additional District Munsif, Kallakurichi



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V.BHAVANI SUBBAROYAN,J.
Smn

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