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CRP Nos.3221 & 3239 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition Nos.3221 & 3239 of 2023
and
CMP.Nos.19878 & 19940 of 2023

K.Veerappan

... Petitioner in both CRPs

Versus

Periyasamy (Died)

1. Murukayan
2. Muthusamy
- 3.Sivakumar
- 4.Prakash
- 5.Rajasekar
- 6.Ravikumar
- 7.Jayakumar
- 8.Anbu
- 9.Subburayan
- 10.Kuppu Durai

Ganesan (Died)

- 11.District Collector
Namakkal District,
Namakkal.

- 12.The Revenue Divisional Officer,
Namakkal Collectorate Office,
Namakkal District.

- 13.Chennapillai

...Respondents in both CRPs



CRP Nos.3221 & 3239 of 2023

Prayer in CRP.No.3221 of 2023: Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the docket order passed by the learned District Munsif, Paramathi, Namakkal District in I.A.No.193 of 2016 in O.S.No.48 of 2016, dated 13.04.2016.

Prayer in CRP.No.3239 of 2023: Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order passed by the learned District Munsif, Paramathi, Namakkal District in I.A.No.8 of 2023 in I.A.No.193 of 2016 in O.S.No.48 of 2016, dated 20.07.2023.

For Petitioner in both CRPs : Mr. M.Guruprasad

COMMON ORDER

The petitioner has filed these revision petitions to set aside the order passed by the learned District Munsif, Paramathi, Namakkal District in I.A.No.193 of 2016 in O.S.No.48 of 2016, dated 13.04.2016 and in I.A.No.8 of 2023 in I.A.No.193 of 2016 in O.S.No.48 of 2016, dated 20.07.2023.

2. Heard Mr.M.Guruprasad, learned counsel for the petitioner and perused the materials available on record.

3. The learned counsel for the revision petitioner submitted that before the trial Court the plaintiffs have filed I.A.No.193 of 2016 to appoint advocate



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commissioner. Accordingly ex-parte Advocate Commissioner was appointed much earlier in the year 2016. Thereafter, the warrant was not executed and hence the matter was adjourned for Commissioner's report. All these 7 years Commissioner has not executed the warrant. All of us sudden, the plaintiffs have filed an I.A.No.8 of 2023 praying for police protection to the Advocate Commissioner to measure the suit property. Aggrieved over the same, the 1st respondents has filed this revision petition stating that for more than 7 years the plaintiffs are taking steps to measure the property belonging to the revision petitioner, who purchased the property long back in the year 1963 and 1979. But, without giving opportunity to the respondents, the Commissioner was appointed, which is totally erroneous and liable to be set aside.

4. A perusal of the record, reveals that while the suit was filed in the year 2016, the plaintiff filed an application and prayed to appoint Advocate Commissioner and obtained ex-parte order before the trial Court. But as on date, the warrant has not been executed, as per the docket order made in the said application. After 7 years, in the year 2023, the plaintiffs have filed an I.A.No.8 of 2023 seeking police aid to measure the property.

5. Admittedly, the revision petitioner / 1st defendant had purchased the



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property much earlier in the year 1963 and 1979. After purchase of the property, sub divisions were made and all defendants are enjoying the property with 4 boundaries. The petitioner is having valid right to defend his case. If opportunity is not given to the petitioner, he will be put to much hardships.

6. The learned trial Judge is directed to give opportunity to the revision petitioner to file counter objection in I.A.Nos.8 of 2023 and 193 of 2016 and proceed with the matter in accordance with law.

7. Till then the warrant is not to be executed.

8. Civil Revision petitions are disposed of accordingly. Consequently connected miscellaneous petitions are closed. No costs.

08.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No

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To
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1. The District Munsif, Paramathi, Namakkal District.
2. The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.
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