



C.R.P.No. 4162 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4162 of 2023

and

C.M.P.No.25387 of 2023

G.Krishnan

.. Petitioner

Vs

1.G.Rajasekar
2.G.Vijayan
3.G.Srinivasan
4.G.Kannan
5.G.Muthukumar
6.G.Usha Rani
7.G.Uma Rani
8.A.M.Suresh
9.A.M.Vetrivel
10.A.M.Sujatha
11.A.M.Devi
12.Bhavani

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside fair and decreetal order of the learned Principal Subordinate Judge of Krishnagiri dated 28.08.2023 in I.A.no.4 of 2023 in O.S.No.125 of 2020.

For Petitioner : Mr.B.Bharath Kumar
for Mr.N.E.A.Dinesh



C.R.P.No. 4162 of 2023

ORDER

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This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.4 of 2023 in O.S.No.125 of 2020, the plaintiff has preferred this revision.

2. Before the trial Court, the plaintiff / petitioner herein filed the suit for partition and separate possession in respect of the suit property, more particularly all are old buildings. The defendants / respondents also appeared and contested the case. During the pendency of the proceeding, the plaintiff / petitioner herein filed application to appoint the Advocate Commissioner to note down the physical features and also measure the property. That application was dismissed by the trial Judge holding that plaintiff / petitioner herein is not entitled to seek appointment of Commissioner with regard to find out the possession of the property and there is no necessity to appoint Commissioner in the partition suit. Accordingly, the application was dismissed. As against which, the present revision is filed.

3. The learned counsel for the petitioner submits that he filed the said application only to note down the physical features since the building is in



C.R.P.No. 4162 of 2023

dilapidated condition and the measurement is also under dispute. So he wants to measure the property with the help of surveyor to prove his claim.

4. On perusal of the records, the plaintiff / petitioner herein filed the application only to measure the property as well as to note down the physical features, not seeking relief to record evidence in respect of the possession of the property but the trial Judge erroneously made an observation in respect of the prayer claimed by the plaintiff / petitioner herein. Therefore, the reason assigned by the revision petitioner is justifiable.

5. Accordingly, the finding of the trial Court in I.A.No.4 of 2023 in O.S.No.125 of 2020 is set aside and this Civil Revision Petition is allowed. The trial Court is directed to appoint an Advocate Commissioner within three weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

3/4



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C.R.P.No. 4162 of 2023

T.V.THAMILSELVI, J.

AT

To
The Principal Subordinate Court, Krishnagiri.

C.R.P.No. 4162 of 2023 and
C.M.P.No.25387 of 2023

29.11.2023