



C.R.P.(MD)No.3313 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3313 of 2023

and

C.M.P.(MD)No.17100 of 2023

Sajitha Joseph

... Petitioner

Vs.

Mohammed Abdul Khadar (Died)

Mariyam Beevi (Died)

1. Latheeba

2. Sahul Hameed

3. Seenath

4. Nabeesath

M.S.Maiden (Died)

Aysha (Died)

... Respondents

Prayer : This Civil Revision Petition filed under Section 115 C.P.C., to set aside the fair and decretal order dated 09.06.2023 passed by the Additional District Munsif Court, Padmanabhapuram in I.A.No.1 of 2021 in O.S.No. 44 of 1981 and allow this civil revision petition.



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For Petitioner : Mr.S.C.Herold Singh

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.1 of 2021 in O.S.No.44 of 1981 dated 09.06.2023 appointing an Advocate Commissioner in the final decree application.

2. The learned counsel appearing for the revision petitioner would submit that the revision petitioner has purchased the property subsequent to the preliminary decree, that subsequently, final decree application was filed in I.A.No.570 of 2017 and the same was ordered to be dismissed on 05.09.2019 and that subsequently, without averring the dismissal of the earlier final decree application, the respondents have filed the present final decree application in I.A.No.1 of 2021, but the trial Court, without considering the same, has appointed an Advocate Commissioner.

3. Since the revision petitioner has purchased the property subsequent to the preliminary decree, she is entitled to claim equity at the time of passing final decree and as such, she has no *locus standi* to question the appointment of Advocate Commissioner at this point of time.



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Moreover, the learned trial Judge has only passed an initial order appointing Advocate Commissioner to measure the property with the help of Taluk Surveyor and file a report. Considering the above, the impugned order cannot be found fault with. Hence, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

4. In the result, this Civil Revision Petition is dismissed.
Consequently, connected Miscellaneous Petition is closed. No costs.

19.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Additional District Munsif Court,
Padmanabhapuram.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
C.R.P.(MD)No.3313 of 2023
and
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Dated : 19.12.2023