



C.R.P.(MD)No.2122 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.2122 of 2019

and

C.M.P.(MD)No.11095 of 2019

1.Sakthivel

2.Annavi ... Petitioners / Petitioners/ Petitioners / Plaintiffs

Vs.

1.Thangarasu (died)

2.The Revenue Divisional Officer,

Kulithalai, Karur District.

3.The Junior Engineer,

O&M.T.E.B., Iyyermalai, Krishnarayapuram,

Karur District.

4.The Assistant Divisional Engineer,

O&M.T.N.E.B., Iyyermalai, Krishnarayapuram,

Karur District.

5.The President,

Panchayat Board,

Thaliyampatti, Kulithalai Taluk,

Karur District

..Respondents 1 to 4/ Respondents 1 to 4 /
Defendants 1 to 4

6.T.Periyakkal

7.T.Saravanakumar



C.R.P.(MD)No.2122 of 2019

8.Kunjambal

9.Shanthi

10.Lakshmi

(R6 to R10 are brought on record as LR's of the deceased R1, vide order dated 13.07.2023, in CMP(MD)Nos.4673,4675&4676/2023.)

Prayer: This Civil Revision Petition is filed Article 227 of the Constitution of India, against the fair and decretal order, passed in I.A.No.581 of 2019 in I.A.No.680 of 2013, in O.S.No.117 of 2013, on the file of the District Munsif Court, Kulithalai, dated 06.11.2019.

For Petitioners : Mr.C.Vakeeswaran

For Respondents : Mr.Senthil Ayyanar for R2

: Mr.AN.Ramanathan for R6 to R10

: Mr.M.Parameswaran for R3 & R4

ORDER

The instant Civil Revision Petition has been filed against the order, passed in I.A.No.581 of 2019 in I.A.No.680 of 2013, in O.S.No. 117 of 2013, on the file of the District Munsif Court, Kulithalai, dated 06.11.2019.

2. The revision petitioners herein are the plaintiffs and the respondents 1 to 4 herein are the defendants 1 to 4 before the Court below. After filing the Civil Revision Petition, the first respondent / first



C.R.P.(MD)No.2122 of 2019

defendant died and his legal heirs are impleaded as Respondents 6 to 10.

3. The learned counsel for the revision petitioners would vehemently submit that they have moved an application for appointment of Commissioner in the year 2013 and that though the Commissioner has visited the property along with Surveyor, for one reason or other reason delayed in filing the Commissioner Report. In the meanwhile, the Court below has closed the application in the year 2018. According to the petitioners, such closure of the Commission Petition is unwarranted, therefore, would submit that to prove their case more effectively, the Commissioner Report is very much essential. Therefore, contended that the order of the Court below for closing the Commission Application is to be set aside and the same needs to be reopened.

4. The said application was objected by the respondents 6 to 10 by contending that the Commission Petition has been pending for the period of 5 ½ years and during the pendency of 5 ½ years, the plaintiffs did not take any steps to see that the report is filed before the Court and



C.R.P.(MD)No.2122 of 2019

the learned counsel would further submit that even the application was filed after 1 ½ years, therefore, there is no merit in the application. Only to drag on the proceedings, the said application has been filed.

5. I have given my anxious consideration to the either side submissions.

6. From the submissions of the either side, this Court could be able to find that the suit is now at the stage of cross examination of plaintiff's side further evidence. From the perusal of the affidavit filed in the main petition, the petitioners have stated about the delaying tactics made by the Surveyor as well as the Commissioner. But, there were no proof available before this Court, as admitted by the plaintiffs. Only on that reason, the Commission application was closed during 2018.

7. There is no reason as to why no steps have been taken, during the pendency of the Commission Petition. There is also no reason why there was 1 ½ years delay in filing the reopen of the Commission application.



C.R.P.(MD)No.2122 of 2019

WEB COPY

8. Admittedly, the suit is of the year 2013, and now, pending for cross examination of plaintiffs' further evidence. Therefore, in view of above discussion, this Court could not find any merit to interfere in the orders of the Court below, at this length of time. Hence, the instant Civil Revision Petition stands dismissed.

9. Considering the long pendency of this matter, the Court below is directed to dispose of the case as expeditiously as possible, preferably within a period of six months from the date of receipt of copy of this order. There shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

05.09.2023

NCC : Yes/No
Index : Yes/No
Ls



WEB COPY



C.R.P.(MD)No.2122 of 2019

C.KUMARAPPAN.,J.

Ls

To

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

Order made in
C.R.P(MD)No.2122 of 2019

05.09.2023