



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

Monday, the Eleventh day of December Two Thousand Twenty Three

PRESENT

The Hon`ble Mrs.Justice S.SRIMATHY

CMP(MD). No.15974 of 2023

IN

S.A.(MD)No.532 OF 2017

1. Kamaraj,
2. Subbiah, (Died)
3. Sethu,
4. Murugesan,
5. Karuppayee,
6. Muthuramalingam,
7. Manikandan
8. Mahalakshmi
9. Mariammal

... Appellants/ Appellants/Plaintiffs

(Appellants 5 to 9 are brought on record as Lrs of deceased A2, vide Court order dated 21.04.2017 made in CMP(MD)No.2244 & 2245/2017 in SA (MD)SR.20899/2015 BY NSSJ.

Vs

- 1 MARIAPPAN
- 2 Mariammal,
- 3 Baskaran,
- 4 Avudaiyammal,
- 5 Bose,
- 6 Raja,
- 7 Kaliasammal,

- 8 The Village Administrative Officer,
Chathirareddiapatty Village,
Virudhunagar Taluk.



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9 The Tahsildar,
Virudhunagar.

10 The Joint Sub Registrar No.2,
Virudhunagar.

... Respondents/ Respondents/ Defendants

Petition filed under order 26 Rule 9 R/W 151 of C.P.C. to Appoint an Advocate Commissioner to inspect the property in Survey No.101/1A of Chatraredipatti Village, Virudhunagar Taluk, Virudhunagar District with the help of Taluk Surveyor and pass such further or other orders as this Honourable Court.

Prayer in S.A.(MD)NO.532 OF 2017:-

This Petition filed under Section 100 of C.P.C. Against the judgment and decree dated 28.06.2013 in A.S.No.26 of 2009 on the file of the Subordinate Judge, Virudhunagar by confirming the judgment and decree dated 10.08.2009 in O.S.No.66 of 2005 on the file of the District Munsif Court, Virudhunagar.

ORDER:-

This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. V. Sasi Kumar, Advocate for the Petitioners and of Mr.B.Muneeswaran, Advocate for the respondents 1 to 7, this Court made the following order:

The appellants in the second appeal have filed this civil miscellaneous petition to appoint an Advocate Commissioner.

2.The appellants and the respondents in the second appeal have purchased the land from a common vendor. However, there is no clear demarcation and identification of the property which is the issue before this Court. Therefore, the appellants have filed this petition to appoint an Advocate Commissioner.

3.The respondents 1 to 7 have objected for the appointment of Advocate Commissioner and has filed a counter affidavit. In the counter affidavit, the



respondents 1 to 7 have stated that in order to drag on the second appeal, this civil miscellaneous petition is preferred, otherwise there is no serious objection in the counter affidavit. More over, the respondents 1 to 7 submitted that they are in possession of the property but the core issue is who is in possession to what extent.

4. Therefore, the report of the Advocate Commissioner is necessary to resolve the issue between the parties. Therefore, this Court is of the considered opinion that the plea of the appellants is acceptable. Therefore, this Court is appointing Mr.L.Subramanian Kishore as Advocate Commissioner. The Advocate Commissioner shall visit the spot with a surveyor, measure the property and thereafter, submit a report before this Court. **(*)The Appellants are directed to pay a sum of Rs.15,000/-, to the Advocate Commissioner as part payment.**

5. Hence, this civil miscellaneous petition is allowed. Post the second appeal on 1st week of January, 2024.

Sd/-

Assistant Registrar(CS III)

(*)Corrected as per the order of this court dated 20.12.2023 made in CMP(MD).No.15974 of 2023 in SA(MD)No.532 of 2017.

Sd/-

Assistant Registrar(CO)

// True Copy //

/12/2023

Sub Assistant Registrar(CS)



To:-

To be substituted to the order which is already despatched on 19.12.2023

1 The Village Administrative Officer,
Chathirareddiapatty Village,
Virudhunagar Taluk.

2 The Tahsildar,
Virudhunagar.

3. The Joint Sub Registrar No.2,
Virudhunagar.

Copy to:-

MR. L. SUBRAMANIAN KISHORE, ADVOCATE,
E.NO.460/18, CHAMBER NO.20, LAWYERS CHAMBER,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI-23. PHONE: 9944444172.



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ORDER DATED : 11/12/2023

HEARING DATE : 1ST WEEK OF JANUARY

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ORDER

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CMP(MD). No.15974 of 2023

IN

S.A.(MD)NO.532 OF 2017

Giving direction and etc.

as stated within.

MK/15.12.2023 5P 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023