



CRP.No.2087 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 17.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP.No.2087 of 2023
and CMP.No.12804 of 2023

1.C.P.Shanmugham
2.S.Chandra
3.S.Gopinath

... Petitioners

Versus

A.P.Rajendran

... Respondent

PRAYER : Petition filed under Article 227 of Constitution of India, to set aside the order and decretal order dated 12.04.2023 passed in I.A.No.1 of 2020 in O.S.No.139 of 2012 on the file of V Additional District Judge, Coimbatore.

For petitioners : Mr.R.Bharath Kumar

For Respondent : Mr.S.Saranraj

ORDER



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Challenge has been made for the appointment of advocate commissioner to divide the property into two equal shares in a final decree proceedings, the present revision petition has been filed.

2. The suit has been filed by the respondent for partition of their half shares in the suit property. The defendant during the cross examination had admitted the shares to the plaintiff. Based on that admission and considering the other pleadings and evidences, preliminary decree has been passed on 04.10.2018. Now an application has been taken for final decree in I.A.No.1 of 2020, wherein, the Trial Court had appointed the advocate commissioner to divide the suit property into two equal shares. Challenging the said order, this revision.

3. Heard both sides and perused the materials placed on record.

4. The judgment and decree passed by the Trial Court when perused, it would indicate that the Trial Court has considered the evidence of DW1 and based on that, preliminary decree has been passed. The said decree and judgment has reached finality. For passing final decree, application has been taken out and in that



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application, advocate commissioner has been appointed by the Trial Court for division of the property. Such view of the matter, I do not find any infirmity in the order passed by the Trial Court in appointing the advocate commissioner for division of property. The partition has to be effected by metes and bounds and that can be done only by way of proper division. Therefore, appointment of advocate commissioner by the Trial Court does not require any interference by this Court.

5. Hence, I do not find any merits in this revision and accordingly, this revision stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

17.12.2024

Index : Yes / No
Speaking/non speaking order
dhk

To,

The V Additional District Judge
V Additional District Court, Coimbatore

N. SATHISH KUMAR, J.



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