



C.R.P.No.4706 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4706 of 2024

Selvaraj

.. Petitioner

Versus

1.Parvathi
2.Kannikaparameshwari
3.Chinnappan
4.Parimala Sundari
5.Unnamalai Ammal
6.Selvi
7.Sumathi
8.Sathish

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 19.07.2024 in I.A.No.1 of 2019 in O.S.No.56 of 2011 pending on the file of the learned Additional District Judge, Chengalpet.

For Petitioner : Mr.Muthamizh Selvakumar

ORDER



C.R.P.No.4706 of 2024

WEB COPY

This civil revision petition challenges the order of the learned Additional District Judge, Chengalpet in I.A.No.1 of 2019 in O.S.No.56 of 2011 dated 19.07.2024.

2. O.S.No.56 of 2011 is a suit for partition and separate possession filed by the respondents 1 and 2 herein. The suit came to be decreed by the learned Additional District Judge on 30.11.2018. An appeal is said to have been filed from the Judgment and decree but there is no order of the appellate court keeping the decree in abeyance. Hence, the plaintiffs moved an application in I.A.No.1 of 2019 seeking for passing of final decree.

3. The learned Trial Judge passed an order on 19.07.2024 appointing one Mr.S.Sundara Vadivelu as an Advocate Commissioner. Challenging the same, the present revision.

4. Mr.Muthamizh Selvakumar pleads that the Advocate Commissioner, who has been appointed by the learned Additional District Judge, had already filed a suit as against the wife of the civil revision petitioner in O.S.No.3 of 2019. Apart from that, he invites my attention to the caveat that has been filed by Mr.S.Sundara Vadivelu in a proposed suit



C.R.P.No.4706 of 2024

WEB COPY

at the instance of wife of the civil revision petitioner. Hence, Mr.Muthamizh Selvakumar pleads that as the Advocate Commissioner appeared against the civil revision petitioner's wife, there is a possibility that he might exhibit a bias against the civil revision petitioner. Hence, he pleads that while he is not objecting for the appointment of Advocate Commissioner, he wants Mr.S.Sundara Vadivelu to be removed and substituted by another Advocate.

5. I have carefully considered the arguments of Mr.Muthamizh Selvakumar.

6. The purpose of appointing an Advocate Commissioner in a partition suit, at the stage of final decree, is to give suggestions on the mode of division of the suit properties. It is not as if the report of the Advocate Commissioner is automatically accepted by the court. After the report comes to the court, an option is given to any party, the plaintiff or the defendant to file objections to the same. The Court, after considering the report and objections, would pass orders.



C.R.P.No.4706 of 2024

WEB COPY

7. In case, Mr.S.Sundara Vadivelu had appeared for any one of the parties in this suit, certainly he will not be entitled to be appointed as an Advocate Commissioner. That is not the situation presented by Mr.Muthamizh Selvakumar.

8. Mr.S.Sundara Vadivelu had appeared against the wife of the civil revision petitioner in a suit and that too, five years earlier. The caveat has also not been filed as against the civil revision petitioner, but in response to Advocate notice issued by his wife.

9. I cannot presume that the Advocate Commissioner will perform his duties in a biased manner. Hence, I am not inclined to admit the revision. In case, Mr.Muthamizh Selvakumar's client feel that there are any errors or lacuna in the Advocate Commissioner's report, he is entitled to object to the same by filing objections before the learned Trial Judge. I am sure, if such objections are filed, the learned Trial Judge shall consider the same and pass appropriate orders.

10. Suffice it to say, as I cannot presume any bias, this civil revision petition is dismissed. No costs.



WEB COPY



C.R.P.No.4706 of 2024

25.11.2024

nl

Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

To

The Additional District Judge, Chengalpet.



WEB COPY



C.R.P.No.4706 of 2024

V.LAKSHMINARAYANAN, J.

nl

C.R.P.No.4706 of 2024

25.11.2024