



C.R.P(MD).No.1027 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.02.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.1027 of 2023

and

C.M.P(MD)No.4813 of 2023

1.A.Chellapandian @ Chellapandi

2.Arumugathai ... Petitioners / Petitioners / Plaintiffs

Vs

K.Chellaguru ... Respondent / Respondent / Defendant

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order made in I.A.No.2 of 2022 in O.S.No.113 of 2014 on the file of the District Munsif Court, Virudhunagar dated 10.01.2023.

For Petitioners : Mr.T.Lenin Kumar

For Respondent : Mr.S.V.Nagarajan



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C.R.P(MD).No.1027 of 2023

ORDER

This Civil Revision Petition is filed to set aside the order made in I.A.No.2 of 2022 in O.S.No.113 of 2014 on the file of the District Munsif Court, Virudhunagar dated 10.01.2023.

2. The suit in O.S.No.113 of 2014 is filed by the revision petitioner herein seeking the relief of declaration that the second item of the suit property mentioned as ABCD, absolutely belong to the plaintiff and for consequential injunction. The defendant appeared and filed written statement. Pending the trial process, a petition was taken out by the revision petitioner in I.A.No.2 of 2022 seeking an order of reappointment of the commissioner. For that purpose, he wants the matter to be reopened. That petition was dismissed by the trial Court against which this Civil Revision Petition has been preferred.

3. In the petition, the following averments have been made by the revision petitioner : After completing the evidence, now the suit is posted for arguments. The commissioner was appointed in I.A.No.279 of 2016



C.R.P(MD).No.1027 of 2023

who did not measure the property in the presence of the Village Administrative Officer. He also measured the property without the aid of the documents, revenue records etc. Since the material particulars are not available in the commissioner report, it did not help the Court to arrive at a just decision. So, for that purpose of appointing another commissioner, reopen the petition is filed.

4. It was resisted by the respondent stating that no proer reason is mentioned. Even the objection petition filed by the revision petitioner, was not entertained and the another petition filed in I.A.No.191 of 2019 was also dismissed, against which a revision was preferred. Later that was also dismissed. The commissioner was also examined on the side of the plaintiff as P.W.3. So the appointment of second commissioner is not permissible. Against which this Civil Revision Petition is preferred.

5. Learned counsel for the petitioner would submit that, along with the report, the commissioner has enclosed three sketches which are contradictory with each other. Those contradictions were also brought on record by examining the commissioner. He would further submit that



C.R.P(MD).No.1027 of 2023

when measurement was undertaken, the document, revenue records were not available.

6. On hearing the learned counsel for the petitioner, it is seen that when the measurement was taken with reference to the documents of each parties, they are clashing with each other, no purpose will be served in appointing a new commissioner. Among those documents which will prevail over the other document is the matter to be decided by the trial Court on the basis of the evidence. So, I find no reason to entertain this petition.

7. With this observation, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

28.02.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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C.R.P(MD).No.1027 of 2023

To

- 1.The District Munsif, Virudhunagar.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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C.R.P(MD).No.1027 of 2023

G.ILANGO VAN, J.

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