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C.RP(MD)No1477 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.1477 of 2024

and

C.M.P(MD)No.8740 of 2024

A.Rajathi

... Petitioner/9th Respondent
9th Defendant

Vs.

1.Thavamani
2.Singarayar
3.Amalarani
4.Regina Mary
5.Adaikkalasamy

...Respondents1to5/Petitioners
1 to 5/Plaintiffs 1 to 5

Sengole(Died)
6.Therasal
7.George Antony
8.Sebastin Paul
9.Jeorm

...Respondents6to9/Petitioners
7to10/Lr of 6th Plaintiff

10.Angeline
11.Rajesh
12.J.Anitha
13.J.Angel
14.J.Buela Princess
15.Arulsamy
16.Udayappan
17.P.Ponnaiya

....Respondents10to17/Respondents
1to8/Defendants 1to8



Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 12.03.2024 in I.A.No. 470 of 2016 in O.S.No.182 of 2012 on the file of the Sub-Court, Sivagangai.

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For Petitioner

:Mr.D.Venkatachalam

ORDER

The Civil Revision petition is directed against the order of the learned Subordinate Judge, Sivagangai, dated 12.03.2024 made in IA.No.470 of 2016 in O.SNo.182 of 2012.

2.A perusal of the order impugned in the Civil Revision Petition, it can be seen that pursuant to the preliminary decree passed in the suit, an application is made to appoint an Advocate Commissioner to partition the suit property as per the preliminary decree. The petitioner had made an objection to the final degree application on the ground that in respect of one item, the extent is shown lesser. As far as the final decree proceedings are concerned, what are the matters that can be raised are all very well settled. In case of any convenient, enjoyment of the parties, then the property can be allotted to the concerned person. In case on ground if the extent being lesser, then the same can also be taken into account by the Advocate Commissioner. In case of the value of the property, the same can also be



taken into account by adequately distributing the property between the sharers.

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3.In view thereof, when the contention is about the wrongful description of the schedule of property by mentioning a lesser extent, the same ought to have raised in the course of the preliminary decree. Secondly, even otherwise, the related arguments such as the availability of land, etc., can be pleaded when the Advocate Commissioner makes the inspection and indulge in the exercise of preparing the report allotting the shares of the parties.

4.In view thereof, the order for appointing the Advocate Commissioner cannot be assailed or impugned by the petitioner and giving liberty to the petitioner to raise such grounds as may be permissible under law before the Advocate Commissioner. Accordingly, the Civil Revision petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.07.2024

NCC:Yes/No
Ns



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To

The Sub-Court,
Sivagangai.

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D.BHARATHA CHAKRAVARTHY, J.

Ns

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C.M.P(MD)No.8740 of 2024**

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