



C.R.P.(MD)No.1893 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1893 of 2024
and
C.M.P.(MD)No.10724 of 2024

Balamani

... Petitioner / 1st Petitioner / 1st Defendant

Vs.

1.Marikannu

2.Veeraiyah

... Respondents / Petitioners / Plaintiffs

3.The Revenue Tahsildar,
Aranthangi.

4.The Village Administrative Officer,
The Village Administrative Office.
Mookkudi.

5.Firka Surveyor,
Mookkudi Village,
Surveyor Office,
Aranthangi.

... Respondents / 2 to 5 Respondents /
2 to 5 Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No.1 of 2024 in O.S.No. 160 of 2023 on the file of the District Munsif Court, Aranthangi, dated 20.06.2024.



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For Petitioner : Mr.R.Balakrishnan

For Respondents : Mr.K.Balasubramani

Special Government Pleader for R3 to R5

: Mr.N.Balakrishnan for R1 & R2

ORDER

Heard both sides.

2. The first defendant in O.S.No.160 of 2023 on the file of the District Munsif Court, Aranthangi is the revision petitioner herein. The plaintiff filed the said suit seeking the relief of declaration and injunction in respect of the suit property. The suit property measures a total extent of 16 cents. It is comprised in two survey numbers, namely, Survey No.40/3 and Survey No. 40/8. The plaintiffs filed I.A.No.1 of 2024 for appointment of advocate commissioner. Questioning the same, this civil revision petition came to be filed.

2. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of civil revision petition and called upon this Court to set aside the impugned order and grant relief as prayed for.



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3. Per contra, the learned counsel for the plaintiffs submitted that the revision petitioner is based in Secunderabad and that at her instance, the jurisdictional DRO had passed an order which led to filing of the suit. All that the plaintiffs want is to be assured that the suit schedule property is not covered by patta issued in favour of the revision petitioner herein. The learned counsel submitted that the impugned order is well reasoned and that it does not warrant interference.

4. It is not in dispute that the suit schedule property measures a total extent of 16 cents. But in IA, the plaintiffs want the entire extent of 6 acres and 18 cents in Survey No.40 to be measured. In other words, the plaintiffs' endeavor appears to localize the suit schedule property. I wanted to know from the learned counsel for the plaintiffs / respondents, if the plaintiffs are sure as to where the suit property is located. It is categorically replied that the plaintiffs are aware as to the location of the property. It is their case that it is not covered by the patta issued in favour of the revision petitioner herein. For this purpose, the advocate commissioner cannot be appointed. The revision petitioner / first defendant does not dispute the description of the property given by the plaintiffs nor its identity or its location.



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5. On a careful consideration of the rival contentions, it appears to be more a title dispute. To resolve this, an advocate commissioner need not be appointed. The impugned order is set aside. The civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.10.2024

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

To:

- 1.The District Munsif Court, Aranthangi.
- 2.The Revenue Tahsildar,
Aranthangi.
- 3.The Village Administrative Officer,
The Village Administrative Office.
Mookkudi.
- 4.Firka Surveyor,
Mookkudi Village,
Surveyor Office,
Aranthangi.



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G.R.SWAMINATHAN, J.

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