



C.R.P.(MD)No.2084 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2084 of 2024

and

C.M.P.(MD)No.11875 of 2024

K.Shanmugam

... Petitioner / 2nd Petitioner / 2nd Defendant

Vs.

1.Rengasamy

2.Deivendran

3.Selvamurugan

... Respondents 1 to 3 / Respondents 1 to 3 /
Plaintiffs 1 to 3

4.Kaliyamoorthy

... 4th Respondent / 1st Petitioner / 1st Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records, set aside the fair and decreetal order of the Principal District Munsif Court, Thanjavur passed in I.A.No.223 of 2024 in O.S.No.103 of 2007 dated 19.06.2024.

For Petitioner : Mr.K.Vijayaraghavan

Fore Respondents : Mr.A.Sivasubramanian for R2 & R3

* * *



C.R.P.(MD)No.2084 of 2024

ORDER

WEB COPY

The second defendant in O.S.No.103 of 2007 on the file of the Principal District Munsif Court, Thanjavur is the revision petitioner herein. This civil revision petition is directed against the order dated 19.06.2024 dismissing I.A.No.223 of 2024 filed by the defendants in the suit.

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

4.Per contra, the learned counsel for the caveator / plaintiff submitted that the impugned order does not call for interference and called upon this Court to dismiss the civil revision petition.

4.I carefully considered the rival contentions and went through the materials on record. O.S.No.103 of 2007 was instituted for declaring that the plaintiff is the absolute owner of the suit properties and for recovery of possession. The plaintiff has sought the relief on the basis of the Head Surveyor's report. The suit property has been described as follows:



C.R.P.(MD)No.2084 of 2024

WEB COPY

“தஞ்சாவூர் பதிவு மாவட்டம், கரந்தட்டான்குடி துணை பதிவு மாவட்டம், தஞ்சாவூர் தாலுக்கா மேலவெளி தோட்டம் கிராமத்தில், பழையசர்வே எண்கள்.144-1, 3 நம்பர்களுக்கு புது சர்வே எண்.144-5, UDR படி 144-5E □மற்றும் புல எண்.144-5B-ன் கீழ்ப்புறம்□ ஏக்கர் 3 சென்ட் 89-ல், நடுபாகம், ஏக்கர் 1 சென்ட்- 6 வருவாய் பதிவேட்டின்படி, ஏக்கர் 1 சென்ட் 11 நஞ்சை நிலம்.□

5.The plaintiff had originally filed I.A.No.222 of 2007 for appointment of advocate commissioner. According to the plaintiff, the report submitted by the advocate commissioner was defective. Hence, I.A.No.408 of 2020 was filed for appointment of a new advocate commissioner for measuring S.No.144/5B. The said I.A. was dismissed by the trial Court on 10.01.2022. Questioning the same, the plaintiff filed C.R.P.(MD)No.1055 of 2022. In the said civil revision petition, the defendants did not enter appearance. The civil revision petition was allowed on 18.08.2023 for reissuing warrant to the same advocate commissioner by directing to file additional report by measuring the suit property with the assistance of qualified surveyor. A further direction was given to dispose of the suit within six months.

6.At this stage, the defendants filed I.A.No.223 of 2024 for measuring the entire survey number in S.No.144/5 or in the alternative S.No.144/5C.



C.R.P.(MD)No.2084 of 2024

WEB COPY

7.The learned counsel for the petitioner drew my attention to the evidence of P.W.2 / Surveyor. He had stated that S.No.144/5 was sub-divided into S.Nos.144/5A to 5G and that only if all the sub-divisions are properly measured, the shortfall in S.No.144/5E cannot be found out.

8.The learned counsel for the petitioner at pains to point out that just as the defendants' property was measured, the plaintiff's property in S.No.144/5B also deserves to be measured.

9.I do find considerable force in the contentions of the learned counsel for the revision petitioner. But I am not inclined to interfere for two reasons. The suit was instituted way back in the year 2007. The defendants ought to have filed such an application much earlier. They did not even choose to enter appearance in C.R.P.(MD)No.1055 of 2022. The arguments now put forth before this Court could have very well been advanced before this Court when C.R.P.(MD)No.1055 of 2022 was taken up.

10.The present I.A. appears to be more a counter blast. In a suit for declaration and recovery of possession, when an advocate commissioner is



C.R.P.(MD)No.2084 of 2024

appointed for conducting local investigation, at one go and in the same breadth, both the parties should advance their respective cases; multiple appointments of advocate commissioner or even multiple re-issuance ought to be avoided.

11.It is in this view of the matter, I decline to interfere. The civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.08.2024

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

To:

The Principal District Munsif Court,
Thanjavur.



WEB COPY



C.R.P.(MD)No.2084 of 2024

G.R.SWAMINATHAN, J.

ias

C.R.P.(MD)No.2084 of 2024

30.08.2024