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C.R.P.(MD)No.2514 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29/02/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No.2514 of 2023

and

CMP (MD) No.13112 of 2023

Karuppannan : Petitioner/
Petitioner/Plaintiff
Vs.

1.Block Development Officer (Administrative)
Lalgudi Panchayat Union,
Poovalur, Lalgudi Taluk,
Trichy District.

2.The Village Executive Officer,
Esanakkorai Panchayat,
Lalgudi Taluk, Trichy District.

3.Albones

4.Arociyameri

5.Cinnaappa dass

6.Imanuvel

: Respondents/Respondents/
Defendants

PRAYER:- Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for the records and set aside the lower court order and decree passed, dated 20/04/2023 in IA No.1 of 2019 in OS No.338 of 2017 on the file of the District Munsif Court, Lalgudi.

For Petitioner : Mr.S.B.Kayvin Prinice

For R1 and R2 : Mr.J.Ashok
Additional Government Pleader

For R3 to R6 : Mr.A.Haja Mohideen



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O R D E R

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This civil revision petition has been filed seeking to set aside the fair and decreetal order, dated 20/04/2023 passed in IA No.1 of 2019 in OS No.338 of 2017 on the file of the District Munsif, Lalgudi.

2.The facts in brief:-

A suit in OS No.338 of 2017 was filed seeking the relief of permanent injunction against the respondent herein. The respondent appeared, filed written statement. Pending further process, the impugned petition in IA No.1 of 2019 was taken out by the petitioner under Order 26 Rule 9 CPC for appointment of commissioner to note down the physical features available in the suit property and for measuring the same by fixing the boundary lines.

3.That was resisted by the respondent that in the sale deed of the plaintiff, no proper boundaries are mentioned. So according to them, the suit property along with the other properties originally belongs to one Chinnappa Nadar ancestrally. After his death, his legal heirs became the joint owners. There was no division between the legal heirs of Chinnappa Nadar. The



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petitioner/plaintiff alleged to have purchased a portion of the property from the co-owner namely Sagayaraj. So according to them, no partition was effected between the legal heirs of the Chinnappa Nadar. The suit itself is bad.

4.In the light of the above said submission, the trial court thought it fit to dismiss the petition stating that it is not required since the suit is one for permanent injunction. In the light of the objection made by the private respondents herein, it is seen that the petitioner alleged to have purchased a portion of the property only from the co-sharer namely Sagayaraj.

5.Whether the suit itself is maintainable is only a matter for consideration by the trial court. Whether the plaintiff/petitioner purchased the property from the above said Sagayaraj after making measurement is also to be taken note by the trial court.

6.In the light of the above said factual circumstances, I find that the order passed by the trial court is absolutely legal and factual in nature, which requires no reconsideration by this court at the revisional state.



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7. In the result, this civil revision petition deserves **dismissal** and accordingly, it is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

29/02/2024

Index:Yes/No
Internet:Yes/No
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To,

The District Munsif Court,
Lalgudi.



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G.ILANGOVAN, J

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