



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.2622 of 2017

and

C.M.P.(MD)No.12082 of 2017

Rabiya Bibi (Died)

2.Mumthaj Begam

3.Noorjahan

4.Nizar Ali

5.Mohammed Iqbal

6.Nazama Begam

... Petitioners

vs.

1.Abi

2.K.Ibrahim Sha

3.K.Sait Hussain Rowthar

4.K.Abdul Rahamani @ Chinna Thambi

5.Saibunissa

6.Shakila

7.K.Zeenath

8.S.Zunaidha

9.S.Samsudeen

...Respondents

(P2 to P6 were brought on record as legal heirs of the deceased sole petitioner vide order of this Court, dated 15.06.2023 in C.M.P.(MD)Nos.1369, 1371 and 1375 of 2023)



PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decretal passed in I.A.No.563 of 2016 in O.S.No. 1016 of 2016 on the file of the Principal District Munsif, Tiruchirappalli, dated 10.10.2017.

For Petitioner :Mr.M.Ashok Kumar
For Respondents :No appearance

ORDER

The present Civil Revision Petition has been filed by the plaintiff against the order passed by the learned Principal District Munsif, Tiruchirappalli in I.A.No.563 of 2016 in O.S.No.1016 of 2016, dated 10.10.2017. During the pendency of this petition, the Revision Petitioner/plaintiff died and her legal heirs were brought on record as Petitioners 2 to 6.

2.Heard Mr.M.Ashok Kumar, learned Counsel appearing for the petitioners.

3.This Civil Revision Petition has been filed by the original plaintiff in



the suit. Originally the suit was filed for a declaration, mandatory injunction and recovery of possession in O.S.No.1016 of 2016 before the Principal District Munsif Court, Tiruchirappalli.

4.During the pendency of the suit, the plaintiff has filed an application in I.A.No.563 of 2016 under Order 26 Rule 9 r/w Section 151 CPC for appointment of Advocate Commissioner. The trial Court by order, dated 10.10.2017 had dismissed the application for appointment of Advocate Commissioner. As against the dismissal order, the present Civil Revision Petition has been filed.

5.The learned Counsel for the petitioners contended that there are three schedules in the suit property and unless and until, an Advocate Commissioner is appointed, the actual lis of the suit schedule property could not be identified. The learned Counsel for the Revision Petitioners further contended that the order passed by the trial Court and the reasons adduced are not in accordance with law.



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6. Though this case was listed on 13.02.2024, again on 08.03.2024 and 12.11.2024, there was no representation for respondents. Even today, there is no representation for the respondents.

7. Considering the facts and circumstances of the case and also the submissions made by the learned Counsel for the petitioners, this Court is of the view that to find out the actual list of the suit schedule properties, an Advocate Commissioner is necessary and that the order passed by the trial Court is set aside and the application for appointment of Advocate Commissioner is allowed. The trial Court shall appoint the Advocate Commissioner and proceed in accordance with law and the entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order.



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8. With the above directions, this Civil Revision Petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

15.11.2024

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

To

The Principal District Munsif, Tiruchirappalli.



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N.SENTHILKUMAR, J.

cmr

Order made in
C.R.P.(MD)(PD)No.2622 of 2017

15.11.2024