



CRP(MD).No.3124 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM :

THE HON'BLE MR JUSTICE G.ILANGOVAN

CRP(MD).No.3124 of 2023 and
CMP(MD).No.16080 of 2023

T.Deivakanni

... Petitioner

Vs.

1.Selvarani

2.Nirmala

3.Vimala

4.Saravanapriya

... Respondents

PRAYER:- Petition filed under Section 151 C.P.C., to set aside the fair and decreetal order, dated 15.09.2023 made in E.A.No.2 of 2022 in E.P.No.22 of 2017 in O.S.No.106 of 2010 on the file the District Munsif, Uthamapalayam.

For Petitioner : Mr. R.Suriya Narayanan

For respondents 1 & 4 : Mr.V.George Raja

for M/s. Ajmal Associates

For respondents 2 & 3 : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decreetal order, dated 15.09.2023 made in E.A.No.2 of 2022 in E.P.No.22 of 2017 in O.S.No.106 of 2010 on the file the District Munsif,



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Uthamapalayam.

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2. The suit in O.S.No.106 of 2010 was filed by the respondents / plaintiffs for partition and in the said suit consent final decree was passed on 22.01.2013. Later, E.P.No.22 of 2017 was taken by the respondents herein to take delivery of the property along with an application to appoint an Advocate Commissioner to measure the property and make the boundary line for effecting the delivery. The said Commission application was allowed and the Advocate Commissioner has also measured the property and filed a report. Since the mistake was committed by the Commissioner mentioning the properties which are not relevant to the final decree, to scrap the above said report, the said application was filed by the revision petitioner herein, that came to be dismissed by the trial Court. Against which, the present revision is preferred.

3. Even though it is a compromise decree, it appears that the property was not divided by metes and bounds, whereas, the sub division was done by the revenue authorities. The revision petitioner took the eastern portion of 87 Cents out of 1 Acre 74 cents therein allotted to her



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in the decree as T.S.No.8/6B as per the sub division, but the said portion was stated as Western portion in the commissioner's report. Hence, the grievance of the petitioner must be addressed.

4. So, the trial Court is directed to re-issue the warrant to the Advocate Commissioner. The Executing Court is directed to fix the Additional fees of the Advocate Commissioner. Let the report be filed by the Advocate Commissioner only with reference to the final decree properties within a period of three months and thereafter, Execution Petition may also be disposed of within a period of two months. The Commissioner may also take into account of the sub division made by the Revenue authorities at the time of making measurement.

5. With the above observation, this Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

15.03.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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G.ILANGOVA,J.

Trp

To

The District Munsif, Uthamapalayam.

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