



C.R.P.(MD)No.171 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.171 of 2024
and C.M.P.(MD).No.717 of 2024

1.Poomalai
2.Marimuthu
3.Mahalakshmi
4.Sankareshwari ... Petitioners/Petitioners

Vs.

1.Krishnammal
2.Ayyammal ... Respondents/Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records pertaining to the fair and decreetal order, dated 30.10.2023 passed by the learned District Court, Sivakasi, in I.A.No.03 of 2023 in I.A.No.1014 of 2015 in O.S.No.396 of 2004 and set aside the same.

For Petitioners : Mr.K.Navaneetharaja

For Respondents : Mr.D.Dhana Chandra Prakash for R2



C.R.P.(MD)No.171 of 2024

WEB COPY

ORDER

This civil revision petition has been filed to set aside the fair and decreetal order, dated 30.10.2023 passed by the learned District Court, Sivakasi, in I.A.No.03 of 2023 in I.A.No.1014 of 2015 in O.S.No.396 of 2004.

2.Suit in O.S.No.396 of 2004 is filed by the respondents herein seeking the relief of partition and separate possession. The defendants entered appearance. The suit was decreed in part. Later the defendants 2 to 4 and 6 filed I.A.No.3 of 2023 seeking the relief of scrapping the commissioner's report filed in I.A.No.1014 of 2015. That came to be dismissed by the trial Court. Against which this revision has been preferred.

3.The objection of the revision petitioners is that in their absence Commissioner was appointed, he visited the property and filed report. Apart from that it is also stated that in respect of the first item of the property the survey number differs. On that ground, he filed this



C.R.P.(MD)No.171 of 2024

application to scrape the commissioner's report, that was not considered.

Against which, this civil revision petition has been preferred.

4.Per contra, the learned counsel for the respondent would submit that with regard to the above said first item of the property, it was also admitted by the revision petitioners themselves in the earlier round of litigation. So no question of correction of the first item of the suit property arises. In respect of the other submissions that in their absence the commissioner measured the property is also not correct, since after giving notice to the petitioners only, the Commissioner inspected the property and made the measurements.

5.Now whatever may be, it appears that there is issue with regard to the survey number of the first item.

6.Let the relevant documents be produced before the final decree Court. By considering all the relevant documents and objections, the final decree Court shall pass orders. If any necessity arises, commissioner warrant shall be reissued to the same commissioner.



WEB COPY



C.R.P.(MD)No.171 of 2024

7.With the above said directions, this civil revision stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2024

Index : Yes / No
Internet : Yes / No
TM

To

1.The District Munsif cum Judicial Magistrate, Sivakasi.

2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.R.P.(MD)No.171 of 2024

G.ILANGO VAN,J.

TM

C.R.P.(MD)No.171 of 2024

06.03.2024