



C.R.P (PD) No.1719 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

C.R.P (PD) No. 1719 of 2025

and

C.M.P.No. 9923 of 2025

1.Baby

2.Mallika

3.Rani

4.Jothilakshmi

5.Dhanushkodi

6.Sivakumar

... Petitioners

VS.

1.Saroja

2.Sithra

3.Geetha

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4.Priya
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5.Revenue Taluk Officer,
Taluk Office,
Gobichettipalayam,
Erode District.

6.Revenue Divisional Officer,
Revenue Divisional Office,
Gobichettipalayam,
Erode District.

7.District Revenue Officer,
District Collector Office,
Erode District.

8.District Collector,
District Collector Office,
Erode District.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 16.12.2024 in IA.No.3 of 2022 in OS.No.126 of 2018 on the file of the Sub Court, Gobichettipalayam, Erode.



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For Petitioner : Mr. P.R.Balasubramanian
For Respondent : Mr. D.Gopal
5 to 8 Government Advocate.

ORDER

Challenging the closure of their application seeking appointment of an Advocate Commissioner to note down the physical features of the properties comprised in S.No.183, part of S.No.184 as also part of S.No.199, Veerapandi Village, with the help of town surveyor and the VAO and measure and demarcate 18 cents of land which is rightfully due to the plaintiffs the plaintiffs are before this Court. The facts are briefly set out herein below.

2. The petitioners herein filed the suit in OS.No.126 of 2018 seeking declaration and permanent injunction against defendants. The plaintiffs' case is that the suit property originally belonged to Sangameswara Iyer. On 14.12.1946 the said Sangameswara Iyer sold the suit property to the plaintiffs' father K.C.Nataraja Chettiyar. From the date of his purchase, he has been in absolute possession and



enjoyment of the suit property. By settlement deed dated 15.07.2016,

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he had settled the properties on the plaintiffs and they have been in possession and enjoyment of the same from the date of the settlement deed and also have had the revenue records mutated in their name and patta transferred.

3. It is their further case that the suit property along with the old house situate in T.S.No.183, 184 and 199 in Gopichetipalayam, Veerapandi Village, measuring an extent of 18 cents belonged to them absolutely.

4. The defendants 1 to 4 owned property in remaining portion of T.S.No.199 to the west of the property belonging to the plaintiffs. Taking advantage of the proximity of the lands defendants 1 to 4 clandestinely, in the guise of a partition suit amongst themselves in OS.No.323 of 2000 included the plaintiffs' property in their suit property and by way of a compromise decree they had got a partition



decree of the plaintiffs suit property as well.

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5. The plaintiffs would submit that after they had obtained patta in their name defendants 1 to 4 approached the revenue officials objecting to the issue of patta in favuor of the plaintiffs. The revenue officials has arbitrarily removed the name of the plaintiffs from the patta. Therefore, the plaintiffs have come forward with the suit for the reliefs stated therein.

6. It is the contention of the plaintiffs that the suit has been filed primarily to fix the boundaries to the extent of 18 cents and for this purpose they had filed IA.No.3 of 2022 to appoint an Advocate Commissioner. The application was also ordered and the revision petitioners along with the surveyor identified some other property other than the suit property. Thereafter the Advocate Commissioner and Surveyor filed the report stating that the suit property is not properly identified by the plaintiffs. Therefore, the plaintiffs after submitting



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their objections had sought for the re-issue of warrant to the Advocate Commissioner. The same has been closed now by the impugned order.

Therefore, aggrieved the plaintiffs are before this Court.

7. A perusal of the impugned order would clearly show that the only objection that was raised by the petitioners to the earlier report was that the suit property had not been properly measured. That the Advocate Commissioner had noted down physical features of the property which is not suit property. The Advocate Commissioner in his report clearly stated that the suit property has been identified as per re-survey number and the boundaries of the suit property. While doing so the boundaries of the property did not tally and he had identified some other property as per the boundary given. Therefore, the learned Judge had observed that the Advocate Commissioner identified the property both as per re-survey number and also as per boundaries.



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8. The learned Judge had opined that the issue as to whether the suit property which is identified by re-survey number is correct is the issue which has to be decided in the main suit based on the evidence. Therefore, the learned Judge apart from rejecting the objections has also closed the application.

9. The suit property described in the plaint is an extent of 18 cents, i.e., 7848 sq.ft., of vacant land together with well and 3 Anganam tiled house together with pathway etc., Besides 18 cents the plaintiffs have also described the lands comprised in S.No.153/B, within 4 boundaries and would contend that this 18 cents is situate within these boundaries.

10. A perusal of the Advocate Commissioner's report would indicate that the property which has been described in the suit property is situate in S.No.326 town extension and not the property which has been identified by the plaintiffs. That the property which is described



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in the suit property is the property which is situate at Gopichetti Palayam town park street and when the Advocate Commissioner and the surveyor had visited the site they found that there was a tiled house belonging to somebody else. Even the property which has been described in Doc.No.115/1947 and the suit schedule property is also situate elsewhere and belongs to some other person. From the Commissioner's report it appears that it is not possible to identify the suit schedule property.

11. The plaintiffs have stated that they have obtained patta in respect of the suit property which would imply that the property has been measured and demarcated with a document that the petitioners could definitely produce. No doubt that the patta has now been canceled.



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12. The suit is now at the stage of Trial and at this juncture the application has been filed. The report of the Commissioner would further show that they have not been able to identify the property as per the document of title and the suit property.

13. Further, the petitioner have not sought to scrap the earlier report but sought for appointment of the Advocate Commissioner. Therefore, on this ground also the application cannot be sustained. The petitioner is attempting to gather evidence through Advocate Commissioner.

14. The Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Internet: yes/No

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