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CRP NPD.No.2257 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 13.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.2257 of 2025 & CMP.No.13084 of 2025

The Central Government Employees Welfare
Housing Organization [CGEWHO],
Represented by its Secretary,
6th Floor, A-Wing, Janpath Bhawan,
Janpath, New Delhi – 110 001.

. . . Petitioner

Versus

1. Mayakrishnan
2. Sriramulu

. . . Respondents

PRAYER : Petition filed under Section 115 of Code of Civil Procedure to set aside the E.A.No.1 of 2024 in E.P.No.70 of 2023 in O.S.No.88 of 2011 Order dated 01.02.2025 on the file of the III Additional District Judge at Poonamallee, Thiruvallur District and consider the demerits of the case and allow the Revision Petition.

For petitioner : Mr.M.Krishnamurthy

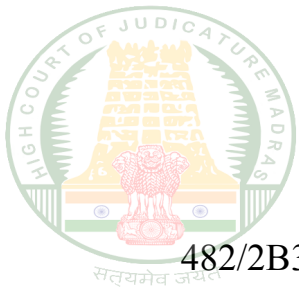
ORDER



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WEB COPY Challenge has been made to the Order of the trial Court appointing an Advocate Commission to divide the suit property in terms of the preliminary decree passed in the suit in O.S.No.88 of 2011 dated 09.01.2024.

2. Originally, the suit in O.S.No.88 of 2011 has been filed for partition and the trial has granted preliminary decree in respect of 1/3rd share in respect of 50 cents in item No.2 of the suit schedule property. The said decree and judgment has also been confirmed by the appellate Court and reached finality wherein 1/3rd share has been allotted to the plaintiff and the first and second defendants. This Court by judgment dated 11.07.2023 has confirmed the allotment of 1/3rd share each to the plaintiff and the first and second defendants in respect of 50 cents in Item No.1 in the suit schedule property. Hence, the judgment and decree has reached finality. Therefore, an application has been filed for appointment of the Advocate Commissioner for identification and allotment of the property. The said application has been allowed by the trial Court. The same has been challenged by the revision petitioner on the ground that the survey number of the property is not tallying and according to the revision petitioner, the survey number of entire second schedule property is



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482/2B3, which is not tallying with original survey number. Therefore, it is their contention that the Advocate Commissioner cannot be appointed.

3. At the outset, I am unable to concede with the submissions of the learned counsel appearing for the petitioner. When the decree of the trial Court has reached finality, wherein preliminary decree has been granted in respect of 50 cents in the Item No.2 of the plaint schedule property and an application has been filed for division of the property in the execution proceedings, the revision petitioner cannot reopen the decree which had reached finality, by putting forth a different defence, which has already been negatived. Hence, I do not find any merits in this revision.

4. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2025

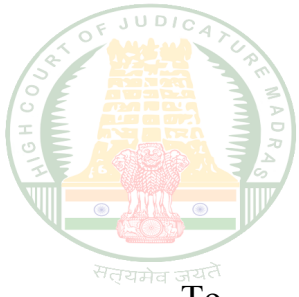
Index : Yes / No

Internet: Yes

Speaking/non speaking order

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To,
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The III Additional District Judge,
Poonamalle, Thiruvallur District.



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N. SATHISH KUMAR, J.

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