



C.R.P.(PD)(MD) No.521 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	02.01.2025
Pronounced on	23.01.2025

CORAM

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No.521 of 2024 and
CMP(MD).No. 2599 of 2024

1.Meenakshi
2.Karthick
3.Nagaraj

... Petitioners / defendants

Vs.

Thangamuthu (died)

1.Gandhimathi
2.Sanmuga Prabhu

Balasubramanian

3.Sahul Hameed
4.Raja Abdul Razak
5.Nisha
6.Iqbal
7.Abbas
8.Thammim Ansari
9.Fathima Joharan
10.Abdul Hakkim
11.Shyeed Beevi
12.Nasrin Salma
13.Jaweed Ahmed



C.R.P.(PD)(MD) No.521 of 2024

14.Fathima

15.Mehala

16.Vennila

17.Nikila

.. Respondents / defendants

(notice not required for the respondents 3 to 14 since they were set ex parte in the suit)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order, passed by the Principal District Munsif Court, Aruppukottai, Virudhunagar District in I.A.No.13 of 2023 in O.S.No.119 of 2010 on 02.01.2024.

For Petitioners : Mr.M.Jothi Basu

For respondents 1, 2, 15 to 17 : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order, dated 02.01.2024 made in I.A.No.13 of 2023 in O.S.No. 119 of 2010 on the file of the Principal District Munsif Court, Aruppukottai, Virudhunagar District.

2. According to the revision petitioners, one Thangamuthu filed a suit in O.S.No.119 of 2010 on the file of the Principal District Munsif



C.R.P.(PD)(MD) No.521 of 2024

Court, Aruppukottai, Virudhunagar District for declaration, permanent injunction and mandatory injunction. The case of the plaintiff in the above suit is that one Sathasivam Asari was the original owner of the suit schedule property situated in old Jamin Bymass No.781, Survey No.227/9, New Survey Number. 227/9B, Aruppukkottai to an extent of 1.22 Acres and thereafter, the same was purchased by the plaintiff on 05.10.1994. While so, the first defendant is trying to interfere in the peaceful possession and enjoyment of the suit property. On the other hand, the defendants would contend that the first defendant has purchased the said property from the defendant Nos.2 to 13. Pending suit, the said plaintiff viz., Thangamuthu died and his legal heirs were impleaded. While so, the revision petitioners / defendants filed an application in I.A.No.13 of 2023 for appointment of an Advocate Commissioner to identify the property and the same was dismissed by the trial Court. Aggrieved by the same, the present revision is preferred.

3. The learned counsel appearing for the revision petitioners would submit that the plaintiff failed to show the description of the property clearly in the suit schedule and therefore, it is necessary to appoint an Advocate Commissioner to identify the property which would be helpful



C.R.P.(PD)(MD) No.521 of 2024

to the Court for arriving at a correct conclusion. However, the trial Court without considering the above facts erroneously dismissed the application, which calls for interference by this Court.

4. In spite of the notice served, there is no representation on the side of the respondents.

5. Heard the learned counsel for the petitioners and perused the materials available on record.

6. I have considered the submission made by the learned counsel for the petitioners and I am of the view that the impugned order cannot be sustained for the reason that it is well settled that when the property is not clearly identified and controversy arises from the pleadings of the parties cannot be demonstrated before the Court by any amount of oral evidence. It would be just and necessary to appoint an Advocate Commissioner, whose report will enable the Court to take a correct decision. The close analysis of the plaint pleadings and the averments in the written statement it is seen that the parties heavily relied on their respective sale deeds. Therefore, the property must be clearly identified with measurements and



C.R.P.(PD)(MD) No.521 of 2024

boundaries, otherwise it will lead to many complications. In this view of the matter the impugned order is un-sustainable in law.

7. In the circumstances, ordered as under:

i) The order passed by the learned Principal District Munsif Court, Aruppukottai, Virudhunagar District, dated 02.01.2024 made in I.A.No.13 of 2023 in O.S.No.119 of 2010 is hereby set aside and accordingly, this Civil Revision Petition is allowed.

ii) The learned Principal District Munsif Judge, Aruppukottai, Virudhunagar District will appoint an Advocate Commissioner who will visit the suit property, after due notice to both sides.

iii) The Advocate Commissioner will note down the physical features more particularly the boundaries and measurements as given in the suit schedule with reference to the title deeds of the plaintiff and he will also measure the revision petitioners property with reference to the boundaries and also with reference to their title deeds and he will submit his report and plan to the trial Court.

iv) The trial Court will give reasonable time to both parties to file their objections if any.



C.R.P.(PD)(MD) No.521 of 2024

WEB COPY No costs. Consequently, the connected Miscellaneous Petition is closed.

23.01.2025

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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Copy To:

The Principal District Munsif Court, Aruppukottai, Virudhunagar District



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C.R.P.(PD)(MD) No.521 of 2024

K.GOVINDARAJAN THILAKAVADI, J.

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Pre-Delivery Order made
in
C.R.P.(MD) No.521 of 2024 and
CMP(MD).No. 2599 of 2024

23.01.2025