



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[NPD](MD)No.1868 of 2025

and

C.M.P.(MD)No.10344 of 2025

1.Arumugam

2.Murugan

...Petitioners

Vs.

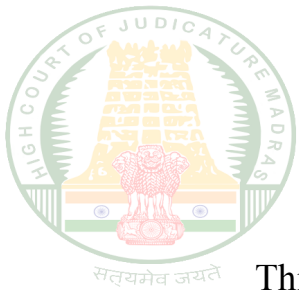
Muthumari

...Respondent

PRAYER: Civil Revision Petition is filed under Section 115 CPC to set aside the order dated 13.09.2024 made in I.A.No.183 of 2022 in I.A.No.340 of 2020 in O.S.No.174 of 2010 on the file of the District Munsif Court, Kovilpatti and allow this Civil Revision Petition.

For Petitioners

: Mr.K.K.Samy



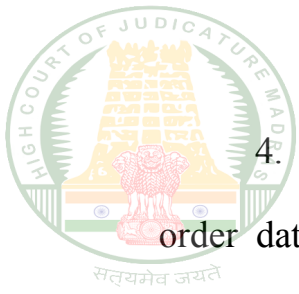
ORDER

This Civil Revision Petition has been filed to set aside the order dated 13.09.2024 passed in I.A.No.183 of 2022 in I.A.No.340 of 2020 in O.S.No.174 of 2010 on the file of the District Munsif Court, Kovilpatti.

2. The respondent filed a suit in O.S.No.174 of 2010 before the District Munsif Court, Kovilpatti, seeking partition. The said suit was decreed on 20.01.2012. Aggrieved by the preliminary decree, the petitioners preferred an appeal in A.S.No.58 of 2012 before the Sub Court, Kovilpatti, which was dismissed on 18.11.2014. No second appeal was filed thereafter. Subsequently, the respondent filed I.A.No.340 of 2020 before the trial Court seeking appointment of an Advocate Commissioner to measure the suit property for the purpose of passing the final decree. The said application was allowed ex parte on 06.10.2021. The petitioners then filed I.A.No.183 of 2022 to set aside the ex parte order dated 06.10.2021. However, the said petition was dismissed on 13.09.2024. Aggrieved by that dismissal, the present Civil Revision Petition has been filed.

3. Since no adverse orders are going to be passed against the respondent, notice to the respondent is dispensed with.

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4. The learned counsel for the petitioners contended that the ex parte order dated 06.10.2021 was passed without affording an opportunity to the petitioners, and therefore, the trial Court ought to have allowed I.A.No.183 of 2022. It is argued that the dismissal of the said application is unjustified.

5. Upon perusal of records, it is evident that the preliminary decree passed in O.S.No.174 of 2010 was confirmed by the lower appellate Court in A.S.No.58 of 2012 on 18.11.2014. No further appeal was filed, and thus, the preliminary decree has attained finality.

6. The application filed by the respondent in I.A.No.340 of 2020 is only a consequential step for passing the final decree, and the appointment of an Advocate Commissioner is procedural in nature. The petitioners have not raised any substantial ground before the trial Court or before this Court to set aside the ex parte order dated 06.10.2021.

7. Once the preliminary decree has been confirmed, the execution of the final decree proceedings cannot be stalled without any valid or substantial reason. The trial Court has rightly dismissed the application filed by the petitioners, and this Court finds no error or irregularity in the impugned order warranting interference under Article 227 of the Constitution of India.



8. In view of the above discussion, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

09.07.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The District Munsif Court, Kovilpatti.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(NPD).(MD)No.1868 of 2



M.DHANDAPANI, J.

TSG

C.R.P.(NPD).(MD)No.1868 of 2025

09.07.2025