

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2015

Coram

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(NPD) No. 1282 of 2015 &
M.P.No.1 of 2015

1.Rathinavathi

2.Murugan

.. Petitioners

.. Vs ..

G.Gnanam

.. Respondents

Prayer:- Civil Revision Petition is filed under section 115 of Code of Civil Procedure, against the fair order and decretal order passed in C.M.P.No.1536 of 2014 in A.S.No.351/2010 dated 16.12.2014, on the file of I Additional City Civil Court, Chennai.

For Petitioners : Mr.M.Balasubramanian

ORDER

Aggrieved over the fair and final order passed in C.M.P.No.1536 of 2014 in A.S.No.351 of 2010 dated 16.12.2014, on the file of First Additional Judge, City Civil Court, Chennai, the defendants have filed the above Civil Revision Petition.

2.The plaintiff filed a Suit in O.S.No. 3644 of 2002 on the file of the XVI Assistant Judge, City Civil Court, Chennai, for permanent injunction. The said Suit was decreed in favour of the plaintiff. Aggrieved over the same, the defendants preferred A.S.No.351 of 2010. In the said First Appeal, the defendants took out an Application in C.M.P.No.1536 of 2014, under Order XXVI Rule 9 of Code of Civil Procedure to appoint an Advocate Commissioner to verify Exhibits A1 to A3 with the assistance of Tahsildar, Koyembedu Taluk Office, Chennai District.

3.Admittedly, the defendants have not examined any Revenue Officials, either to verify Exs.A1 to A3 or to disprove the said documents and except D.W.1, who is the first defendant in the Suit, no one was examined. The defendants have not marked any documents in the Suit. In these circumstances, the trial Court taking into consideration the available oral and documentary evidence, decreed the Suit in favour of the plaintiff. Now at the

appellate stage, the defendants have filed an Application seeking for appointment of an Advocate Commissioner to verify Exs. A1 to A3 with the assistance of the Tahsildar.

4.The defendants could have examined the Tahsildar on their side before the trial Court, which was admittedly not done. In these circumstances, the lower Appellate Court have rightly dismissed the Application. I do not find any error or irregularity in the order passed by the lower Appellate Court.

5.Accordingly, the Civil Revision Petition is devoid of merits and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.04.2015

rpa

To

- 1.The learned I Additional City Civil Judge, Chennai.
- 2.The Section Officer, V.R.Section.

M.DURAI SWAMY,J.
rpa

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