

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.No.4625 of 2014

and

M.P.No.1 of 2014

1.V.Raja
2.R.Shanthi
3.R.Ramesh
4.R.Manikandan
5.V.Sendrayan

... Petitioners

Vs

1.K.Arjunan
2.R.Hemamalini

... Respondents

Prayer:- The Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order, dated 08.07.2014 passed in I.A.No.513 of 2014 in O.S.No.284 of 2014 on the file of I Additional District Munsif Court, Salem.

For Petitioners : Mr.P.Jagadeesan

For Respondents : Mr.R.Margabendhu

O R D E R

The Civil Revision Petition is directed against the order dated 08.07.2014 passed in I.A.No.513 of 2014 in O.S.No.284 of 2014 on the file of I Additional District Munsif Court, Salem.

2.The respondents have filed a suit against the petitioners for declaration and for permanent injunction. The case of the plaintiffs is that they are absolute owners of the suit property. As per the partition suit, they have right in the common channel described as ABCD to the plaint plan and sought for injunction restraining the defendants from disturbing the plaintiffs from using ABCD channel.

3. The defendants filed a written statement stating that the plaint rough sketch is entirely false and there was no water channel in the defendants' land. The plaintiffs filed I.A.No.513 of 2014 in the suit for appointment of advocate commissioner to note

down the physical features of the suit property and surrounding area.

4. The application was resisted by the defendants stating that they have to prove their case through documents and the report of the Advocate Commissioner will not help in any way to resolve the issue involved in the suit. Despite objections, the trial court allowed the application. Aggrieved by the order, the present revision is filed.

5. Heard Mr.P.Jagadeesan, learned counsel for the petitioners and Mr.R.Margabandhu, learned counsel for the respondents.

6. It is seen that the plaintiffs claim right over the ABCD channel mentioned in the plaint plan. However, the defendants disputed even the existence of the common channel. The Trial Court having satisfied that the advocate commissioner report is necessary in this case, appointed an advocate commissioner.

7. Considering the facts of the case, I do not find any illegality or irregularity in the order impugned in this revision. Hence the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

The I Additional District Munsif Court,
Salem.

+1cc to Mr.R.Margabendhu, Advocate, S.R.No.12322

+1cc to Mr.P.Jagadeesan, Advocate, S.R.No.12328

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SSI (CO)
CA(01/04/2015)