

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.2092 of 2015  
and M.P.No.1 of 2015

1.Smt.Kalyani  
2.Saravanan  
3.Vairamani  
4.Muthulakshmi @ Kuttiammal

... Petitioners

Vs.

1.S.Sundaram  
2.Palany  
3.S.Ilangovan  
4.S.Aruna  
5.The Commissioner,  
Arokkonam Municipality,  
Municipality Buildings,  
Arakkonam Town and Taluk,  
Vellore District.

6.The Branch Manager,  
Indian Bank,  
Arakkonam Town and Taluk,  
Vellore District.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 27.03.2015 in I.A.No.454 of 2014 in O.S.No.2 of 2007 on the file of the District Munsif Court, Arakkonam.

For Petitioners : Mr.S.Udayakumar

**ORDER**

Challenging the fair and decreetal order passed in I.A.No.454 of 22014 in O.S.No.2 of 2007 on the file of the District Munsif Court, Arakkonam, the plaintiffs have filed the above Civil Revision Petition. The plaintiffs filed the suit in O.S.No.2 of 2007 for declaration, recovery of possession and for permanent injunction. The said suit is being contested by the defendants on various grounds.

2.When the suit was taken up for trial, the plaintiffs filed an application in I.A.No.454 of 2014 seeking for appointment of Advocate Commissioner to note down the physical features. The application was opposed by the defendants. The trial Court, after taking into consideration the case of both the parties, dismissed the application, finding that the plaintiffs cannot collect evidence through the Advocate Commissioner. In the affidavit filed in support of the petition, the plaintiffs have stated that the defendants are disputing the measurement found in the suit property and therefore, appointment of the Advocate Commissioner is necessary for proper adjudication. The case of the plaintiffs is that by virtue of oral partition, they were allotted a specific share in the property. In these circumstances, the plea of oral partition and measurement have to be established by oral and documentary evidences by the plaintiffs. It is settled position that the parties cannot collect evidence through the Advocate

Commissioner. The trial Court is perfectly correct in dismissing the application.

3.In these circumstances, I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed.

4.Since the suit is pending from the year 2007, I direct the District Munsif Court, Arakkonam, to dispose of the suit in O.S.No.2 of 2007, on merits and in accordance with law, within three months from the date of receipt of a copy of this order.

5.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No  
Internet : Yes/No  
va

**08.06.2015**

To

The District Munsif Court, Arakkonam.

**M.DURAIWAMY,J.**  
va

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