

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3810 of 2015

and

M.P.No.1 of 2015

1.A.K.Chellappan

2.A.P.Thangavel

3.Palani Gounder

.. Petitioners/
Plaintiffs/Petitioners

Vs.

1.Gowri Shankar

2.Mahesh Kumar

3.S.P.Chinnasamy

.. Respondents/
Defendants/Respondents

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 07.08.2015 made in I.A.No.312 of 2015 in O.S.No.127 of 2015 on the file of the Principal District Court, Bhavani - in so far as it is against the petitioners.

For Petitioners : Mr.T.Murugamanickam

For Respondents : Mr.Chandrasekaran.P

O R D E R

The revision petitioners are the plaintiffs in O.S.No.127 of 2015 on the file of the Principal District Court, Bhavani. It is a suit for permanent injunction restraining the defendants from interfering with the use of the common cart track "ABCDEFGHIJK".

2. While so, the revision petitioners filed an application in I.A.No.312 of 2015 for appointment of an Advocate Commissioner to note down the physical features of the cart track and submit a detailed report with sketch.

3. The Trial Court passed an order dated 07.08.2015 allowing the said application in I.A.No.312 of 2015. It would be appropriate to incorporate paragraph 5 of the said order passed by the Trial Court.

"5. Record perused. Counter perused respondent also has no objection to appoint a commissioner except for the reason that commissioner shall be appointed and commissioner report and plan shall be filed after measuring the suit property and adjacent property with the help of surveyor."

4. The grievance of the revision petitioners/plaintiffs is that there is no necessity to measure the adjacent property and note down its physical features, as the issue is only relating to the cart track.

5. Heard both sides.

6. While the learned counsel for the revision petitioners has submitted that the word "adjacent property" in paragraph 5 of the order dated 07.08.2015 made in I.A.No.312 of 2015 has to be deleted, the learned counsel for the respondents would submit that the Advocate Commissioner shall also be directed to measure and identify the cart track "ABCDEFGHIJK".

7. In fact, the learned counsel appearing for the respondents have no serious objection to delete the word "adjacent property" in paragraph 5 of the order and on the other hand, the learned counsel for the revision petitioners had expressed no objection to use the services of the surveyor to measure and identify the cart track.

8. In these circumstances, the order of the Trial Court dated 07.08.2015 made in I.A.No.312 of 2015 is modified to the effect that the Advocate Commissioner appointed by the Trial Court can take the assistance of the Surveyor to identify and measure the cart track and note down the physical features of the cart track alone and submit a detailed report along with sketch.

9. The Civil Revision Petition is disposed of in the above terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Principal District Court,
Bhavani Erode District.

2.The Section Officer,
V.R.Section,
High Court Madras.

+1cc to M/s.T.Muruga Manickam, Advocate sr.57423

+1cc to Mr.P.Chandrasekaran, Advocate Sr.57410

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ad[co]

srg 5/11/2015

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