



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 03.02.2015

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
C.R.P (MD) No.78 of 2015

and

M.P (MD) No.1 of 2015

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1.I.Palanichamy
2.P.Sakthivel
3.P.Thalaiyammal

... Petitioners/Petitioners/Plaintiffs

Vs.

1.Uthirappa Naicker
2.Rajaram
3.Pushbarani
4.Mahalakshmi
5.Saraswathi
6.Srividhiya

... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.205 of 2013 in O.S.No.91 of 2010, dated 21.07.2014 on the file of the Sub Court, Sivakasi.

For Petitioner : Mr.K.Elangovan

ORDER

The revision petitioners, who are the plaintiffs, have filed the above Civil Revision Petition challenging the fair and decreetal order passed in I.A.No.205 of 2013 in O.S.No.91 of 2010, dated 21.07.2014 on the file of the Sub Court, Sivakasi.

2. The plaintiffs in the suit in O.S.No.91 of 2010 has filed an application in I.A.No.205 of 2013 under Order 26 Rule 9 of the Code of Civil Procedure, 1908 for appointing an Advocate Commissioner to go along with Surveyor to assess the damage caused. The said application was dismissed by the trial Court on 21.07.2014. Against which, the Civil Revision Petition has been filed.

3. According to the petitioners/plaintiffs, damage that was sought to be assessed was the value of trees, which was cut and removed by the defendants. Further, from the records, it is seen that the trees have been cut and removed even in the year 2003. Even before 2005, the trees have been totally cut and removed.

4. It is the case of the plaintiffs that they had given a complaint before the police in the year 2003. If the defendants had started cutting the trees in the year 2003, the plaintiffs should have come to Court then itself. Having waited for a long time, it will not serve any useful purpose by appointing an Advocate Commissioner to assess the damage caused by cutting and removing the trees. Even according to the petitioners, the trees were felled in the year 2005. Therefore, appointing of a Commissioner would not serve any purpose for assessing the damages alleged by the plaintiffs and on the same reason, the trial Court has dismissed the application.



5. This Court also sees no irregularity nor any error in the order passed by the trial Court. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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/True Copy/

Sd/-

Assistant Registrar(Writs)

Sub Assistant Registrar

To
The Subordinate Judge,
Sivakasi.

C.R.P (MD) No.78 of 2015
03.02.2015

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