

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP [PD] No.1713/2015 & MP.No.1/2015

1.Ramasamy
2.Pappathi
3.Ramsamy @ Kallukuthi
4.Perumayee
5.Sakthivel
6.Chitra
7.Palanisamy
8.Kavitha

...Petitioners

versus

S.Palanisamy

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order of the learned District Munsif, Paramathi, dated 08.09.2014 in IA.No.538/2014 in OS.No.204/2013.

For Petitioners : Mr.P.Valliyappan

For Respondent : Mr.C.Munusamy

ORDER

The above civil revision petition has been filed by the petitioners against the fair and decreetal order made in IA.No.534/2014 in OS.No.204/2013 dated 08.09.2014.

2 This matter is posted today pursuant to the request made by the learned counsel for the petitioners on 27.09.2016.

3 The respondent filed a suit for injunction before the learned District Munsif, Paramathi, in OS.No.204/2013. The suit was contested by the petitioners herein by filing a written statement.

4 The petitioners filed an application for appointment of an Advocate Commissioner. The Advocate Commissioner so appointed, submitted his report. Thereafter, pursuant to the request made by the petitioners, another report was filed by the Advocate Commissioner on 13.03.2014.

5 The petitioners after filing objections to the report, filed an application in IA.No.538/2014 for appointment of another Advocate Commissioner for the purpose of submitting a fresh report and a plan. The said application was dismissed by the Trial Court. The said order is under challenge in this Civil Revision Petition.

6 The background facts indicates that the Advocate Commissioner appointed by the Trial Court, at the instance of the

petitioners, filed two reports. The petitioners filed objections to the said reports and thereafter, filed an application in IA.No.538/2014 for appointment of Advocate Commissioner afresh.

7 The suit was instituted by the respondent. It is for the respondent to plead and prove that he is entitled for an order of injunction. It is not as if the petitioners are bound to prove the negative. The Advocate Commissioner has already filed his reports. It is for the Trial Court to appreciate the reports and plans submitted by the Advocate Commissioner.

8 I do not find any error or illegality in the order passed by the Trial Court, dismissing the interlocutory application in IA.No.538/2014 in OS.No.204/2013, filed by the petitioners herein for appointment of Advocate Commissioner.

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

29.09.2016

AP

K.K.SASIDHARAN, J.

AP

To

The District Munsif
Paramathi.

CRP [PD] No.1713/2015

29.09.2016