

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.12.2016

Coram

The Honourable MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD.No.24 of 2015
and
M.P.No.1 of 2015

1. Mani
2. Chinnaponnu
3. Senthil Kumar

... Petitioners

vs.

R.Matheswaran

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 12.08.2014 passed by the learned District Munsif, Attur in I.A.No.1481 of 2013 in I.A.No.1148 of 2012 in O.S.No.308 of 2012.

For Petitioners : Ms.R.Sripriya
for Mrs.V.Srimathi

For Respondent : Mr.T.Murugamanickam

ORDER

The defendants are the revision petitioners.

2. The revision is filed, challenging the order of dismissal passed by the Court below, in the application filed by the revision

petitioners to appoint a Commissioner, in a suit filed by the respondent/plaintiff for permanent injunction, restraining the defendants from interfering with his peaceful possession.

3. The revision petitioners, contended that the respondent has fabricated the documents, to usurp the property in their possession. Therefore, they had taken out an application seeking appointment of a Commissioner to measure the suit property with the help of a land surveyor to find out whether the respondent has encroached into the property of the revision petitioners. The said application was dismissed by the trial Judge by holding that the suit filed by the respondent/plaintiff is only for an injunction and the only ingredient that has to be seen is with regard to the possession of the respondent/plaintiff, for which purpose a Commissioner cannot be appointed. Accordingly, he prayed for setting aside the same.

4. Heard both sides.

5. The specific contention of the revision petitioners/defendants that the survey number in the sale deed produced by the respondent/plaintiff is entirely different from the portion, which is in

his possession, can be proved by other evidence and not by appointing a Commissioner by noting the physical features of the suit property. Even if there is any overlapping of any of the portion of the properties claimed by the respondent/plaintiff, it is for him to establish the same and the defendant need not establish. Therefore, the learned trial Judge has rightly dismissed the application, warranting no interference in this revision.

6. In the result, this Civil Revision Petition is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

19.12.2016

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Index: Yes/No
Internet: Yes

To
The District Munsif, Attur

PUSHPA SATHYANARAYANA.J

vj2

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