

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.1257 of 2016

&

C.M.P.No.6938 of 2016

1.Swaminathan
2.Jayakumar
3.Sivakumar

... Petitioners

vs.

Murugesan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 26.11.2015 made in I.A.No.253 of 2015 in O.S.No.27 of 2011 on the file of the learned District Munsif-cum-Judicial Magistrate I, Walajapet, Vellore District.

For Petitioner : Mr.K.Thangavelu

ORDER

The defendants 1 to 3 in the original suit O.S.No.27 of 2011 on the file of the District Munsif-cum-Judicial Magistrate No.I, Wallajahpet are the petitioners herein.

2. The respondent in the Civil Revision Petition filed the above said suit for a bare injunction. The revision petitioners / defendants 1 to 3, after

entering appearance, contending that the respondent/plaintiff was not in possession and on the other hand the revision petitioners/defendants were in possession of the suit property as on the date of the filing of the suit, filed an application I.A.No.253 of 2015 for appointment of an Advocate Commissioner. The application was resisted by the respondent/plaintiff. The learned trial Judge, after hearing, dismissed the application holding that no Advocate Commissioner can be appointed to find out who is in possession of the suit property. It is as against the said order dated 26.11.2015, the present Civil Revision Petition came to be filed under Article 227 of the Constitution of India.

3. The matter stands listed today for admission. The arguments advanced by Mr.K.Thangavelu, learned counsel for the petitioners are heard. The certified copy of the impugned order and copies of the other documents produced in the form of typed-set of papers are also perused.

4. Upon such hearing and after such perusal, this Court does not find any defect or infirmity, much less exercise of jurisdiction not conferred on the Court below or non-exercise of jurisdiction conferred on the Court below or exercise of the jurisdiction conferred on the Court below with illegality or irregularity so as to warrant an interference by this Court in exercise of its

power of superintendence under Article 227 of the Constitution of India. The learned trial Judge has not committed any error in holding that no Commissioner can be appointed to find out who, among the rival contestants, is in possession of the suit property in a suit for bare injunction based on possession. There is no merit in the revision. The revision does not even merit admission.

Hence the revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

21.04.2016

Index: Yes/No
Internet: yes
gpa

To

The District Munsif-cum-Judicial Magistrate I
Walajapet, Vellore District

P.R.SHIVAKUMAR.J.,

gpa

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