

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.174 OF 2016
AND CMP NO.910 OF 2016

1.Thangavel
2.Gopal
3.Thangaraj

... Petitioners

Versus

1.Chinnusamy
2.Mahalingam

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 12.10.2015, made in I.A.No.1022 of 2015 in O.S.No.277 of 2015, on the file of the District Munsif Court, Mettur.

For Petitioners : Mr.K.Sathish Kumar
For Respondents : Mr.A.Sundaravadhanan

ORDER

The first respondent filed a suit in O.S.No.277 of 2015 before the District Munsif Court, Mettur, praying for a decree of declaration and mandatory injunction.

2. The first respondent along with the said suit, filed an

application in I.A.No.1022 of 2015 for appointment of Advocate Commissioner. The application was allowed by the Trial Court, without issuing notice to the petitioner. The petitioner therefore filed this Civil Revision Petition.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

4. The petitioners earlier filed a suit in O.S.No.257 of 2015 before the District Munsif Court, Mettur, praying for a decree of permanent injunction. It was only during the currency of the said suit, the first respondent filed a suit in O.S.No.277 of 2015, for declaration and injunction.

5. The Trial Court appointed an Advocate Commissioner *exparte* without notice to the petitioner. Even before the inspection of the property by the Advocate Commissioner, the petitioners filed the Civil Revision Petition and obtained interim order.

6. In view of the subsequent events, I am of the considered

opinion that the matter requires fresh consideration by the learned Trial Judge.

7. The order dated 12.10.2015 in I.A.No.1022 of 2015 in O.S.No.277 of 2015 is set aside. The Interlocutory Application in I.A.No.1022 of 2015 is restored to file. The petitioners are given time till 21.11.2016 to file counter in the said application.

8. The learned Trial Judge is directed to dispose of the application in I.A.No.1022 of 2015 in O.S.No.277 of 2015 on merits and as per law.

9. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected civil miscellaneous petition is closed.

04.11.2016

Note: Issue order copy on 09.11.2016

TK

K.K.SASIDHARAN, J.

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To

The District Munsif Court
Mettur.

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