

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.1824 of 2016 and
CMP.No.9526 of 2016

1.Nallamuthu

2.Ammami

...Petitioners

versus

1.V.Karupannan

2.V.Periyasamy

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 04.01.2016, passed by the learned District Munsif, Namakkal in I.A.No.8 of 2016 in O.S.No.6 of 2016.

For Petitioners : Mr.P.Sathish

For Respondents :Mr.N.Suresh

ORDER

This Civil Revision Petition is directed against order dated 04.01.2016, passed by the learned District Munsif, Namakkal in I.A.No.8 of 2016 in O.S.No.6 of 2016.

2.The respondents have filed a suit for permanent injunction. In

the said suit Advocate Commissioner was appointed by the learned trial Judge, as per order dated 04.01.2016 in I.A.No.8 of 2016 without issuing notice to the revision petitioners. The petitioners therefore, filed this Civil Revision Petition.

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

4.The suit in question was filed by the respondents praying for a decree of permanent injunction. Pending suit, the respondents have moved an application seeking ex-parte appointment of Advocate Commissioner before the Trial Court. The Trial court appointed the Advocate Commissioner by order dated 04.01.2016. Even before the inspection by the Advocate Commissioner, the petitioners have come up before this Court.

5.The learned counsel for the respondents submitted that the Advocate Commissioner is yet to inspect the property.

6.Since the order appointing the advocate Commissioner has been passed without giving an opportunity to the petitioners, it is

appropriate to direct the trial Court to decide I.A.No.8 of 2016 in O.S.No.6 of 2016 afresh on merits.

7. In the result, the order dated 04.01.2016 in I.A.No.8 of 2016 in O.S.No.6 of 2016 is set aside. The petitioners are permitted to file counter in I.A.8 of 2016 on or before 19.11.2016. The learned trial Judge is directed to take up the application and dispose of the same thereafter on merits and in accordance with law.

8.The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

28.09.2016

Index:Yes/No
dn

To

The District Munsif,
Namakkal

K.K.SASIDHARAN, J.

(dn)

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