

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) No.712 of 2016
and C.M.P.No.3693 of 2016

1. S.M.Kathirvel
2. K.Gopu
3. K.Pradeep

... Petitioners

Versus

- M.Kasilingam @ Kasianna
Gounder (since deceased)
1. K.Kumaravel
 2. K.Velusamy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 11.01.2016 made in I.A.No.325 of 2015 in O.S.No.556 of 2008 on the file of the II Additional District Munsif at Erode.

For Petitioners : Mr.M.S.Seshadri
For Respondents : Mr.S.Mukunth
for M/s.Saravabhauman Asso.

ORDER

The Trial Court appointed an Advocate Commissioner to inspect the suit property pursuant to an application filed by the respondents. The Advocate Commissioner submitted his report. The trial Court permitted the respondents to mark the reports and plan submitted by the Advocate Commissioner as Exs.C1 to C4, notwithstanding the objection raised by the petitioners. The petitioners therefore filed I.A.No.325 of 2015 to scrap

Exs.C1 to C4. The application was dismissed by the trial Court. The order is under challenge in this Civil Revision Petition.

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

3. The trial Court issued a Commission to inspect the suit property and file a report. The Advocate Commissioner, appointed by the Court after inspection of the property, submitted his reports and plan. In case, the parties wanted to mark the Commissioner's reports, the same should be marked as Court Exhibits. In case, the reports are marked through plaintiffs or defendants, the parties would be denied of opportunity to examine the Commissioner. In normal course, the Commissioner's report and plan should be marked as Court Exhibits. There is no question of marking the Commissioner's report either through the plaintiffs or the defendants. The Trial Court was not correct in permitting the respondents to mark the commissioner's reports and plan as Exs.C1 to C4.

4. In the result, the order dated 11.01.2016 is set aside. The documents marked as Exs.C1 to C4 shall stand eschewed from evidence. The parties are permitted to examine the Commissioner for the purpose of marking the documents.

5. The learned trial Judge is directed to dispose of the suit as expeditiously as possible.

6. The Civil Revision Petition is allowed to the extent indicated above.

No costs. Consequently, connected miscellaneous petition is closed.

11.11.2016

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To

The II Additional District Munsif,
Erode.

K.K.SASIDHARAN, J.

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