

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.807 of 2016

&

C.M.P.No.4458 of 2016

1.Natarajan
2.Nallammal
3.Saravanan
4.Sakthivel

... Petitioners

vs.

1.Saraswathi Educational Trust
Represented by its
Treasurer
K.P.Murugesan M/39
S/o.Palanivel Gounder

2. The Secretary
E.Murugesan M/37
S/o.Edayappa Gounder
Both are at
Ulipuram Village
Gangavalli Taluk
Salem District

3. S.Raja
4.T.Baskaran

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order made in I.A.No.748 of 2015

in O.S.No.462 of 2004 by an order dated 22.07.2015 passed by the learned District Munsif Court, Attur.

For Petitioners : Mr.A.Nagarathinam

ORDER

The defendants in the original suit are the petitioners in the Civil Revision Petition. The respondents herein filed O.S.No.462 of 2004 on the file of the District Munsif Court, Attur for 1) a declaration of their title to the suit property; 2) a direction to the defendants to surrender possession of the portion of the suit property claimed to have been encroached upon within a period to be fixed by this Court by appointing a Commissioner to measure the property with reference to survey records with the help of a surveyor; and 3) an injunction restraining the petitioners herein/defendants from interfering with the peaceful possession and enjoyment of the respondents/plaintiffs in respect of the suit property.

2. The suit is being contested by the defendants and they filed I.A.No.748 of 2015 praying for appointment of an Advocate Commissioner to visit the suit property and the property of the defendants to measure them with reference to survey stones and to fix

the boundaries between the property of the plaintiffs and the defendants. The said application was dismissed by the trial court by order dated 22.07.2015. The said order is challenged by the defendants in the original suit by preferring the present Civil Revision Petition under Article 227 of the Constitution of India.

3. The submissions made by Mr.A.Nagarathinam, learned counsel for the petitioners are heard. The materials available on record are also perused.

4. One of the prayers made in the suit itself is for appointment of a Surveyor to measure the property with reference to revenue records and fix the boundary and also for 855447recovering the portion of the suit property which has allegedly been encroached upon by the defendants. What the petitioners now seek is to decide the issue regarding the said prayer made in the plaint in the interlocutory application itself.

5. The suit was filed 12 years back. Even after 12 years, the same has not been disposed of. From the affidavit filed in support of the petition it seems, in yet another case between the same parties,

on a petition filed by the petitioners herein, an Advocate Commissioner was appointed and the Advocate Commissioner inspected the properties and submitted report and plan. Under the said circumstances, the present attempt to have the suit property measured with reference to survey stones can be viewed as nothing but an attempt to prolong the case further, besides the same being an attempt to have a decision of a main issue in the interlocutory stage itself. Hence, this Court does not find any infirmity in the order passed by the trial Court in dismissing the application filed for appointment of an Advocate Commissioner. There is no defect in the order impugned in this revision and the revision deserves dismissal at the threshold.

In the result, the Civil Revision Petition is dismissed. In view of the fact that the suit is pending for more than 12 years, this court hereby directs the trial Court to expedite the trial and dispose of the suit within four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

14.03.2016

Index: yes/No
Internet: yes
gpa

To

The District Munsif Court
Attur

P.R.SHIVAKUMAR.J.,

gpa

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