



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 06.06.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (MD) No.1020 of 2016

and

C.M.P. (MD) No.5101 of 2016

1. Chinnasamy

2. Ramasamy Gounder

.. Petitioners/Petitioners/
Defendants

Vs.

1. Krishnan

2. P.Dharmalingam

.. Respondents/Respondents/
Plaintiffs

Prayer: Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 15.07.2015 made in I.A.No.1019 of 2014 in O.S.No.424 of 2014 on the file of the learned Additional District Munsif, Karur.

For Petitioners : Mr. N.Shanmugaselvam

For Respondents :Mr.V.Balaji

ORDER

The defendants in O.S.No.424 of 2014 on the file of the learned Additional District Munsif, Karur are the petitioners in this Revision.

2. The respondents herein filed the suit against the petitioners for declaration and permanent injunction, contending that they are the absolute owners of the property in Survey Nos.363/1, 362/2 and 363/3A and the defendants have filed the written statement and contest the suit.

3. When the suit was listed for trial, the petitioners filed an application in I.A.No.1019 of 2014 for appointment of an Advocate Commissioner to note down the physical features of the suit property. Since the application was dismissed, the present Revision is filed.

<https://hcservices.courts.gov.in/hcservices> 4. He and the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.



5. It is seen that the respondents have filed the suit for declaration and permanent injunction. The petitioners are the owners of the property in Survey No.364 and claiming right over the property in Survey No.363/1, filed this application.

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6. It is settled law that the burden of proof is on the plaintiff to establish this case. The learned Trial Judge dismissed the application, observing that the report of the Advocate Commissioner would not be helpful to decide the issue involved in the suit and the suit has to be decided on the basis of the relevant documents and oral evidences of the parties.

7. Considering the nature of prayer sought for in the suit, I do not find any illegality or irregularity in the order passed by the learned Additional District Munsif, Karur and hence, this Civil Revision Petition is dismissed. No costs. Consequently connected Civil Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

The Additional District Munsif, Karur.

+1cc to Mr.N.Shanmuga Selvam, Advocate SR.No.28855

+1cc to Mr.V.Balaji, Advocate SR.No.28186

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