



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2016

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD) No.2495 of 2016

and

C.M.P. (MD) No.11731 of 2016

1. Sevugaperumal
2. Somu
3. Balasubrmanian
3. Vijay

.. PETITIONERS/Petitioners/Defendants

Vs.

1. Umapathi
2. Umaiyaal

.. RESPONDENTS/Respondents/Plaintiffs

**PRAYER:** Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 24.02.2016, passed in I.A.No.770 of 2015 in O.S.No.78 of 2015 on the file of the District Munsif Court, Aranthangi and to allow this Civil Revision petition.

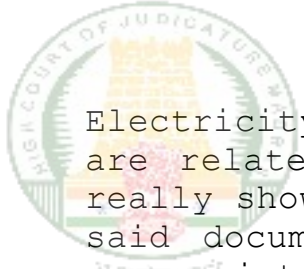
For Petitioners : Mr.G.Sridharan

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### **O R D E R**

This Civil Revision petition is filed against the order passed in I.A.No.770 of 2015 in O.S.No.78 of 2015 on the file of the learned District Munsif, Aranthangi.

2. The said application was filed by the Revision petitioners/defendants for appointment of an Advocate Commissioner, to note down the physical features of the suit property. In the affidavit filed in support of the petition, the Revision petitioners have not given any reasons for the necessity to find out the physical features of the suit property. No doubt, in the affidavit filed in support of the petition, the Revision petitioners have stated that the documents filed by the respondents/plaintiffs in the suit, namely, House Tax receipt, Professional Tax receipt, Licence receipt, Water Tax receipt and



Electricity receipt should be identified whether those documents are related to the suit property. None of the documents would really show that it is in relation to the suit property. Even the said documents can be established only by marking them through appropriate persons to prove that they relate to the suit property.

3. It is to be noted that the Revision petitioners have not even filed the written statement in the suit. Hence, even before filing of written statement and without knowing what is the case of the defendants, it is not desirable to appoint an Advocate Commissioner to note down the physical features of the suit property.

4. The Law is settled that the Advocate Commissioner cannot be appointed to collect evidence. In this case, the Lower Court has also found that the application is not maintainable to collect evidence, as no other reason was divulged by the petitioners. Hence, I do not find any reason to interfere with the order of the Lower Court. However, it is open to the Revision petitioners to file a Written statement and then if he is able to satisfy the Court that the Advocate Commissioner need to be appointed to render some assistance to the Court in resolving any issue which may arise for consideration of the Court on the basis of the written statement, the learned District Munsif, Aranthangi, may consider the same in accordance with law.

5. Accordingly, the Civil Revision petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/  
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To  
1.The District Munsif,  
Aranthangi.  
2,The Record Keeper, V.R.Section,  
Madurai Bench of Madras High Court, Madurai  
+1cc to Mr. G.SRIDHARAN Advocate, in SR No.79888  
pmu  
js/12/01/2017/2p-4c

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