

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.2189 of 2017

and

C.M.P No.10477 of 2017

1. Mohan
2. Santhosh
3. Ezhilarasi

.. Petitioners

Vs

Bhavani

.. Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, seeking to set aside the fair and decreetal order dated 28.02.2017 made in I.A. No. 71 of 2016 in O.S. No. 82 of 2012 on the file of the District Munsif Court, Gudiyatham.

For Petitioners : Mr. V. Srikanth

For Respondent : Mr. M.L. Ramesh

ORDER

This Civil Revision Petition arises against the fair and decreetal order dated 28.02.2017 made in I.A. No. 71 of 2016 in O.S. No. 82 of 2012 on the file of the District Munsif Court, Gudiyatham.

2. The learned counsel for the revision petitioner submitted that the respondent filed a suit in O.S. No. 82 of 2012 on the file of the District Munsif Court, Gudiyatham, for the relief of permanent injunction against the petitioners. After a period of about 5 years, the respondent filed an application in I.A. No.71 of 2016 before the trial court, to appoint an Advocate Commissioner to inspect the suit schedule mentioned property and measure and direct to file a report. In the Interlocutory Application, the petitioners/ defendants filed their counter statement, contending that without qualified engineer and Taluk surveyor, the purpose of appointment of Advocate Commissioner will not be materialised. The Trial Court, considering the said contention of both the parties, allowed the application by appointing an Advocate Commissioner, to measure the property, with the assistance of Taluk Surveyor and submit his report. Challenging the said order, the defendants therein have filed the present revision petition.

3. According to the learned counsel for the petitioners, the petitioners/ defendants have no objection on the order passed by the Trial court. However, to find out the age of the building, the learned Advocate Commissioner with the assistance of a qualified engineer has to inspect the said property and then submit his report.

4. The learned counsel for the respondent would fairly concede that the respondent/ plaintiff has no objection for appointing a qualified engineer along with the Advocate Commissioner to find out the age of the building in the suit property.

5. In view of the above submissions made by the learned counsel for the parties, this Court is inclined to modify the order passed in I.A. No. 71 of 2016 in O.S. No. 82 of 2012 by the District Munsif Court, Gudiyatham, to the extent that the learned Advocate Commissioner, along with the Taluk Surveyor, with the assistance of a qualified Civil Engineer, shall measure the suit property and submit his report, as directed by the trial court on 28.02.2017.

6. The Civil Revision Petition is disposed of, accordingly.
Consequently, the connected Miscellaneous Petition is closed. No Cost.

31.10.2017

Index: Yes/ No

Speaking order/ Non speaking order

avr

To

The District Munsif Court,
Gudiyatham.



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D. KRISHNAKUMAR J.,

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