

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.34 of 2017
and
C.M.P.No.243 of 2017

1. P.Kandasamy
2. P.Kumarasamy

.. Petitioners

Vs.

P.Thangamuthu

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order, dated 15.12.2016 in I.A.No.872 of 2015 in C.M.A.No.3 of 2015 on the file of the Principal Sub-Court, Tirupur.

For petitioner : Mr.M.Devendran

ORDER

The revision petition is filed by the plaintiffs against the order refusing to appoint an Advocate Commissioner to inspect the suit property and note down the physical features of the same. The suit is filed for permanent injunction restraining the defendant from interfering with the plaintiff's usage of common passage described in the plaint schedule.

Pending suit, the plaintiffs have filed I.A.No.690 of 2014 for injunction, which was dismissed and aggrieved by the same, C.M.A.No.3 of 2015 has been filed before the Principal Sub-Court, Tirupur. The Sub-Court granted interim injunction and the appeal is now taken up for hearing. At this stage, I.A.No.872 of 2015 was filed for appointment of Advocate Commissioner in C.M.A.No.3 of 2015. The said application was dismissed by the Sub-Court, stating that the revision petitioners/plaintiffs have not stated that the respondent has made any encroachment of the above said passage. Besides the scope of C.M.A. is only with respect to the grant of interim injunction. There is no necessity for appointment of Advocate Commissioner as claimed by the petitioners. The learned counsel for the revision petitioners seeks permission to move similar application for appointment of Commissioner in the main suit. Granting the said liberty as prayed for, the revision petition is dismissed. No costs. C.M.P. is closed.

11.01.2017

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Copy to

The Principal Subordinate Judge, Tirupur.

PUSHPA SATHYANARAYANA, J

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