

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.542 of 2017
and C.M.P.No.2774 of 2017

1. V.K.Pongaliappan
2. V.P.Alagesan

.. Petitioners

Vs.

V.K.Kaliyappan

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 09.01.2017 passed in I.A.No.487 of 2016 in O.S.No.293 of 2015 on the file of the First Additional District and Sessions Court, Tiruppur.

For petitioners : Mr.A.M.Packianathan Easter

For respondents : Mr.S.Kaithamalai Kumaran (for caveator)

ORDER

The revision is filed by the defendants, challenging the dismissal of the application filed by them to appoint Advocate Commissioner to note down the physical features of the suit properties and improvements made in

the suit properties. According to the revision petitioners/defendants, they have made lots of improvements described in item No.3 of the suit property and developed Garden, etc. In the counter affidavit filed by the respondent/plaintiff before the Court below, in paragraph 5, it is stated specifically that to avoid further alteration of the physical features, a Commission may be issued with a direction to the Commissioner to note down the physical features only in the suit properties. Despite such concession made before the Court and in the counter affidavit, the learned trial Judge dismissed the application. Learned counsel for the respondent/plaintiff also conceded before this Court that the Commissioner can be appointed only to note down the physical features and not to determine the improvements made in the suit property as asked for in the application. In fact, the improvements as alleged by the petitioners/defendants, have not been categorically stated even in the affidavit. Therefore, this Court is inclined to appoint the Advocate Commissioner only for the limited purpose of noting down the physical features of the suit properties and nothing more than that. Accordingly, the trial Court is directed to appoint an Advocate Commissioner in that regard at the earliest with the specific time frame to file report by him, apart from fixing necessary remuneration to the Advocate Commissioner to be paid by

the defendants. With these observations and direction, the Civil Revision Petition is partly allowed. No costs. Consequently, C.M.P. is closed.

21.02.2017

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Copy to
The Additional District Judge, Tiruppur.

PUSHPA SATHYANARAYANA, J

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