

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

CORAM:

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

CRP (PD) No.4519 of 2014
& MP.No.1 of 2014

S.Jeyaraman (Died)

1.J.Sivapackiavathy
2.J.Thinakaran
3.Chitradevi
4.Manimala Sumathy Thevy
5.J.Sashikala
6.J.Sivavigneswaran ... Petitioners

Vs.

1.B.Ashok Kumar
2.N.S.Kannayyan ... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to allow the Civil Revision Petition and set aside the order and decretal order of the Court of the Additional District Munsif, Poonamallee, dated 12.03.2014, passed in I.A.No.73 of 2014 in O.S.No.794 of 2004.

For Petitioners : Mr.S.Baskaran
For Respondents : Mr.M.Chidambaram

ORDER

The petitioners filed a suit for declaration and recovery of possession in O.S.No.794 of 2004 before the District Munsif Court,

Poonamallee. The suit was contested by the respondents by filing written statement. The petitioners after conclusion of trial, filed an application in I.A.No.73 of 2014, for appointment of Advocate Commissioner.

2. According to the petitioners, D.W.1 admitted the title of the plaintiffs with respect to 7 cents of property and as such, Advocate Commissioner should be appointed to identify the property.

3. The trial Court having found that there is no dispute with regard to the identity of the suit property, dismissed the application by order dated 12.03.2014. The said order is under challenge in this Civil Revision Petition.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

5. The petitioners in the plaint in O.S.No.794 of 2004 clearly admitted that they have fenced the property, meaning thereby there is no dispute with regard to the identity of the property. The fact that D.W.1 admitted the title of the petitioners with respect to 7 cents of property, would not give a right to the petitioners to seek appointment

of an Advocate Commissioner. When it is the consistent case of the petitioners that they are in possession of a well-defined property, there is no question of appointment of Advocate Commissioner and that too during the final stage of the suit. The learned trial Judge considered this aspect and rightly dismissed the application in I.A.No.73/2015. I do not find any error or illegality in the order passed by the trial Judge warranting interference, by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

6. In the upshot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2017

ds

To:

The Additional District Munsif Court,
Poonamallee.

K.K.SASIDHARAN, J.

ds

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