

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1153 of 2009
& M.P.No.1 of 2009

1.Mariamammal
2.Rajamanickam

.. Petitioners

Vs.

Theivanaiammal

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decretal order dated 06.08.2008 made in I.A.No.1360 of 2008 in O.S.No.1318 of 2005 on the file of the I Additional District Munsif Court at Coimbatore.

For Petitioners : Mr.M.Munkunth
for M/s.Sarvabhauman Associates

For Respondent : Not ready in notice

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 06.08.2008 made in I.A.No.1360 of 2008 in O.S.No.1318 of 2005 on the file of the I Additional District Munsif Court at Coimbatore.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. The petitioners are the defendants and respondent is the plaintiff in O.S.No.1318 of 2005 on the file of the I Additional District Munsif Court at Coimbatore. The respondent filed the said suit for mandatory injunction and permanent injunction. The petitioners filed written statement and are contesting the suit. When the suit is in part-heard stage, the petitioners filed I.A.No.1360 of 2008 for appointment of Advocate Commissioner to inspect the suit property with the help of Taluk Surveyor, as Advocate Commissioner appointed earlier has not measured the property with the help of surveyor.

4. The respondent filed counter affidavit and submitted that already an Advocate Commissioner was appointed and he has inspected the suit property and filed his report. The petitioners earlier filed two applications in I.A.Nos.319 and 320 of 2008 and the same were allowed. When the suit was posted for cross examination of P.W.1, the petitioners did not cross examine the P.W.1 and both the applications were closed. When the suit is posted for arguments,

the petitioners have come out with the present application and it is not maintainable. The respondent also submitted that the petitioners have already filed the present application only to drag on the proceedings and prayed for dismissal.

5. It is seen from the records that the learned Judge took note of the fact that already in I.A.No.1426 of 2005, Selvi.S.Maheshwari, Advocate was appointed as Advocate Commissioner and she inspected the suit property, filed report and the sketch, which were marked as Exs.C.1 to C.4. On 10.08.2006, the suit was referred to Lok Adalat and one Thirumathi.K.Mahalakshmi was appointed as Advocate Commissioner and she with the help of Civil Engineer inspected the property and filed the report on 11.02.2008.

6. In view of the fact that two Advocate Commissioners have inspected the property and filed the reports, the learned Judge dismissed the application by giving valid and cogent reason. There is no irregularity or illegality warranting interference with the order passed by the learned Judge dated 06.08.2008.

V.M.VELUMANI, J.

dm

7. In the result, the Civil Revision Petition is dismissed.
Consequently, connected miscellaneous petition is closed. No costs.

24.10.2017

Index : Yes/No
dm

To

The I Additional District Munsif,
Coimbatore



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