

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.4075 of 2016
and
C.M.P.No.20567 of 2016

1. Natarajan
2. Ramasamy
3. Subramani

.. Petitioners

Vs.

G.Meganathan

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 07.01.2016 passed in I.A.No.1626 of 2015 in O.S.No.259 of 2012 on the file of the District Munsif Court, Chengalpattu.

For petitioners : Mr.K.Govi Ganesan

For respondent : Mr.S.Ramesh

ORDER

Suit is filed for permanent injunction restraining the defendants from interfering with the peaceful possession of the suit property. The revision petitioners are the defendants in the said suit. The defendants have filed an application under Order 26 Rule 9 CPC for appointment of Advocate Commissioner to visit the suit property and note its physical features. It is

stated that the plaintiff is unlawfully obliterating in the natural channel over the suit land, and thereby, obstructing the natural flow of water. Hence, Advocate Commissioner is sought to be appointed to inspect the suit property and note down the physical features therein. After contest, the said application was dismissed, against which, the revision petition is now filed.

2. Admittedly, the channel which is now mentioned by the defendants, is not the subject matter of the suit. The suit is one for injunction. It is also the case of the plaintiff that he has constructed a Well only in his patta land. But the defendants have mistaken that the plaintiff is obstructing the natural flow of channel. Even otherwise, the Court can appoint Advocate Commissioner only when there is necessity for local investigation to enable the Court to adjudicate the matter in dispute. The Commissioner cannot be appointed when the other evidence regarding the factum of possession is available. Hence, the trial Court has rightly dismissed the said application on the said ground, which does not warrant any interference. Hence, the Civil Revision Petition is dismissed. No costs. C.M.P. is closed.

01.02.2017

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The District Munsif, Chengalpattu.

PUSHPA SATHYANARAYANA, J

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