

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED:19.06.2017****CORAM:****THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN****CRP (MD) No.1158 of 2017**

- 1.Arumugam
- 2.Shanmuga Sundharam
- 3.Laxmanan
- 4.Saravanan
- 5.Udaiyan

...Petitioners

-Vs-

- 1.Government of Tamil Nadu
Represented by District Collector,
Ramanathapuram District.
- 2.Sub Collector,
Paramakudi Town,
Paramakudi,
Ramanathapuram District.
- 3.The Thasildar,
Paramakudi Town,
Paramakudi,
Ramanathapuram District.
- 4.The Block Development Officer,
Paramakudi Town,
Paramakudi,
Ramanathapuram District.
- 5.Arumugam
- 6.Pandi
- 7.Shanmugam
- 8.Selvam

...Respondents

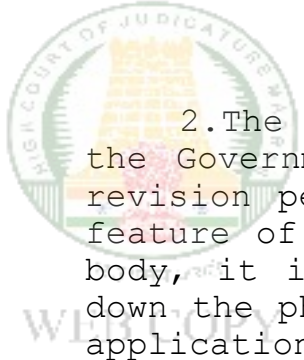
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records and set aside the decreetal order and Judgment passed by the learned District Munsif Court, Paramakudi, Ramanathapuram District in I.A.No.563 of 2016 in O.S.No.24 of 2015 dated 27.03.2017.

For Petitioner

: Mr.Chettinad Legal Solutions

ORDER

This revision petition is directed against the dismissal of application in I.A.No.563 of 2016 in O.S.No.24 of 2015 dated 27.03.2017, filed by the plaintiffs under Order 26 Rule 9 CPC for appointment of Advocate Commissioner.



2.The suit schedule property is tank and water body owned by the Government that is maintained by PWD. The contention of the revision petitioner is that due to some dispute regarding physical feature of the water body and sharing the resources from the water body, it is necessary to appoint an Advocate Commissioner to note down the physical nature, whereas the trial Court has dismissed the application, stating that such an application is not maintainable to make a roving enquiry and cull out evidences.

3.This Court finds no perversity in the said order.

4.There is a specific averment made in the written statement filed by the defendants 1 to 4, regarding that no notice has not been served by petitioners under Section 80 of C.P.C., before filing the suit and further, the suit is not maintainable, as it is beyond the jurisdiction of the Civil Court. Therefore, while taking the suit for trial, the trial Court is directed to frame preliminary issue whether the suit is maintainable and decide the maintainability of the suit first and then proceed the case further, if necessary.

5.Hence, this Civil Revision Petition is dismissed. No costs.

Sd/-
Assistant Registrar(Protocol)

/True Copy/

Sub Assistant Registrar

To

The learned District Court,
Paramakudi,
Ramanathapuram District.

MM/DAS
JS/MR/KKR/SAR.4/7.7.2017/2P-2C

CRP (MD) NO.1158 of 2017 (PD)
19.06.2017