

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 01.11.2017

CORAM:

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.R.P. (PD) (MD)No.1433 of 2016****and****C.M.P. (MD) .No.7019 of 2016**

1.V.Harisankar

2.V.Manivannan

: Petitioners/Petitioners/Plaintiffs

Vs.

1. The Assistant Engineer,
Tamilnadu Electricity Generation
and Distribution Corporation,
Palaviduthi, Kadavoor Taluk,
Karur District.

2. The Assistant Executive Engineer,
Tamilnadu Electricity Generation
and Distribution Corporation,
Chinthamanipatti, Kadavoor Taluk,
Karur District.

3. The Executive Engineer,
Tamilnadu Electricity Generation
and Distribution Corporation,
Karur District.

4. The Superintending Engineer,
Tamilnadu Electricity Generation
and Distribution Corporation,
Karur District.

5. The Chairman,
Tamilnadu Electricity Generation
and Distribution Corporation,
Anna Salai, Chennai-2.

: Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the
Constitution of India, against the order made in I.A.No.516 of 2015



in O.S.No.94 of 2015, on the file of the District Munsif Court, Kulithalai.

For Petitioner

: Mr.M.Suresh

For Respondents

: Mr.M.Mohan Babu

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O R D E R

The above Civil Revision Petition has been filed challenging the order passed in I.A.No.516 of 2015 in O.S.No.94 of 2015, on the file of the District Munsif Court, Kulithalai.

2. Heard the learned Counsel for the petitioners and the learned Counsel for the respondents and perused the materials available on record.

3. The petitioners/plaintiffs have filed a suit in O.S.No.94 of 2015 on the file of the District Munsif Court, Kulithalai for permanent injunction. During the pendency of the suit, they have filed an interlocutory application in I.A.No.516 of 2015 under Order XXVI Rule 9 and Section 151 C.P.C., 1908, to appoint an Advocate Commissioner to inspect the suit property and measure the same with the help of a qualified surveyor and fixed the boundaries for the suit property and to note down the measurement with the help of existing material factors.

4. The petitioner has also filed an interlocutory application in I.A.No.517 of 2015 under Order XXXIX, Rule 1 and 2 and Section 151 C.P.C. 1908, to grant an order of temporary injunction till the disposal of the suit and also grant an exparte order of ad-interim injunction to the same effect till the disposal of the petition, restraining the respondents/defendants and their men, subordinates, agents and servants and all persons claiming through from in any way interfering with the petitioners'/plaintiffs' peaceful possession and enjoyment of the suit property in any manner.



5. The trial Court, while dealing with the above matter, has not passed any order on the application filed for appointment of Advocate Commissioner. Though the Government Pleader undertook to file vakalath for the respondents, without any counter, the trial Court has taken the application for disposal and without considering the application in a proper perspective manner, passed the dismissal order. In the considered opinion of this Court, the order has been passed by the trial Court without any application of mind and therefore, the same is liable to be set aside.

6. In the result, the Civil Revision Petition is allowed and the order made in I.A.No.516 of 2015 in O.S.No.94 of 2015 is set aside and the matter is remanded back to the trial Court for fresh consideration and pass orders on merits and in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The District Munsif Court, Kulithalai.

+1cc to M/S.M.SURESH, Advocate SR.No.84856.

+1cc to M/S.M.MOHAN BABU, Advocate SR.No.84955.

C.R.P. (PD) (MD) No.1433 of 2016
and
C.M.P. (MD) .No.7019 of 2016
01.11.2017

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