

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Rev.Appl.No.42 of 2018
and C.M.P.No.4491 of 2018

1.R.C.S.Rajkumar
2.M.Nirmala Rajkumar

.. Petitioners

Vs.

1. Devammal @ S.B.Devaki
2. S.Dhinakaran
3. S.Ramanikaran
4. S.Lakshmikaran

.. Respondents

PRAYER: Review Application has been filed under Order 47 Rule 1 read with 114 of C.P.C., to review the order of this Court dated 07.11.2017 made in C.R.P.(PD)No.1345 of 2013.

For Petitioners : Mr.B.Ravi

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ORDER

This Review Application is filed to review the order of this Court dated 07.11.2017 made in C.R.P.(PD)No.1345 of 2013.

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

3. The learned counsel appearing for the review petitioners has made submissions with regard to the merits of the case. The first petitioner has perfected title by adverse possession and that the respondents have not mentioned in the plaint that the first petitioner prevented them from measuring the property with the help of surveyor. The issue in the suit can be decided only by letting in oral and documentary evidence and not by the report of the Advocate Commissioner. These contentions are on merits of the suit. The learned counsel appearing for the petitioners is re-arguing the matter on merits with new points. At the time of hearing of the Civil Revision Petition, the learned counsel appearing for the review petitioners relied on the judgment reported in **(2006) 4 LW 516 (Chinnathambi & others Vs. Anjalai)** and submitted that the Advocate Commissioner cannot be appointed to collect evidence and prove their case. This contention was considered by this Court and the same was rejected on the ground that the first petitioner has already trespassed into the suit property and they are not seeking appointment of Advocate Commissioner for the purpose of finding

out who is in possession of the suit property. The purpose of appointment of Advocate Commissioner is only to inspect and measure the suit property with the help of surveyor and if necessary, permit the Advocate Commissioner to take aid of police. There is no error apparent on the face of the order warranting to review the order dated 07.11.2017.

4.In the result, the Review Application is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No

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V.M.VELUMANI,J.

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