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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.03.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
C.R.P. (PD) (MD)No.559 of 2018
and
C.M.P. (MD)No.2405 of 2018

1.V.Perumal
2.P.Jayaraman
3.P.Sellappan
4.P.Arumugam
5.P.Ramachandran

... Petitioners / Petitioners /
Defendants

vs.

Maruthaiappan

... Respondent / Respondent /
Plaintiff

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 25.10.2017 passed in I.A.No.902 of 2017 in O.S.No.129 of 2011 on the file of the District Munsif Court, Kulithalai.

For Petitioners : Mr.K.Govindarajan

ORDER

This Civil Revision Petition has been filed challenging the order passed by the learned District Munsif, Kulithalai, in I.A.No.902 of 2017 in O.S.No.129 of 2011 dated 25.10.2017.

2. Among other things, the learned Counsel for the petitioners would submit that the respondent herein, as plaintiff, has filed the suit in O.S.No.129 of 2011 before the District Munsif Court, Kulithalai, for the relief of injunction. According to the petitioners, pending suit proceedings, a Commissioner application was filed by the respondent/plaintiff, followed by which, a Commissioner was appointed, who, in turn, has submitted his report. The grievance of the petitioners is that the earlier Commissioner report lacks specific measurements. Therefore, they have filed the present interlocutory application to re-issue the commission warrant to the same Commissioner with a specific direction to measure the suit property comprised in S.F.No.123/45 of Athanoor Village. But, the trial Court has erroneously dismissed the said petition and challenging the same, they are before this Court.



3. The learned Counsel for the petitioners would vehemently contend that the petitioners are having a good case and if the present petition is not allowed, they will be put to much prejudice. Therefore, he prays for an opportunity so as to put forth their case.

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4. Heard the learned Counsel appearing for the petitioners and perused the documents placed on record. Notice to the respondent is dispensed with.

5. It is seen that the suit is of the year 2011. Written statements were filed on 12.06.2012 and issues were framed as early as on 21.08.2012 and right from 21.08.2012, the suit is pending for trial. It is also seen that on 05.02.2016, PW1 was examined and the suit is now posted for cross examination of PW1.

6. In the mean time, a Commissioner application was filed by the respondent/plaintiff, which was later allowed, thereby, a Commissioner was appointed, who, in turn, has filed his report, for which, the petitioners/defendants has reported no objection. Thereafter, the said report was placed on file. Such being so, nearly after a lapse of seven years, the petitioners/defendants have come up with the present plea seeking re-issuance of warrant, without any valid reasons, which, in my considered opinion, is only to drag on the proceedings, as rightly held by the Court below.

7. In such a view of the matter, this Court is not inclined to entertain this civil revision petition and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To
The District Munsif,
Kulithalai.

+1cc to Mr.K.Govindarajan, Advocate Sr.No.56588

GK
VB/SKN/RSK/SAR4/06.04.2018/2P/3C

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