



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P(MD).No.1377 of 2017 and
CMP(MD).No.6785 of 2017

1.B.Andiyappan
2.A.Senthil Murugan
3.A.Suresh Kumar
4.A.Bala Murugan

... Petitioners/Plaintiff

Vs.

P. Karuthiyappan

... Respondent/Defendant

Prayer: This Petition is filed under Article 227 of the Constitution of India praying to set aside the order of the District Munsif Court at Vedasandur, Dindigul District in I.A.No.406 of 2015 in O.S.No.158 of 2015, which is dismissed as devoid of merits on 8.09.2016.

For Petitioners ... Mr. M. Mohanaraj
For respondent ... No appearance

ORDER

This Civil Revision petition is filed to set aside the order of the District Munsif at Vedasandur, Dindigul District in I.A.No.406 of 2015 in O.S.No.158 of 2015, dated 8.09.2016.

2. The revision petitioners, who are the plaintiffs, have filed a suit in O.S.No.158 of 2015, on the file of the District Munsif - Cum - Judicial Magistrate Court, Vedasandur, for declaration of title and for consequential injunction, claiming Nine schedule properties. They have also filed an application in I.A.No.406 of 2015, for appointment of an Advocate Commissioner to note down the physical features of the suit properties.

3. The respondent / defendant filed a written statement stating that he has no objection for the claim of the plaintiffs in all the scheduled mentioned properties, except item No.6, the learned District Munsif - Cum - Judicial Magistrate, Vedasandur at Dindigul District has dismissed the said application without any observations. But, the Court must looked into the written statement and direct the petitioners to restrict their prayer only to item No.6, but, without doing so, had simply dismissed the petition. Challenging the said order, the present Civil Revision Petition has been filed.



4. I have heard the learned counsel appearing for the petitioners and perused the documents.

5. Admittedly, the respondent / defendant has filed a written statement stating that he has no objection for the claim of the plaintiffs in all the schedule of properties, except Item No.6. Now, the learned counsel appearing petitioner wanted to restrict the prayer with regard to item No.6 and to appoint an Advocate Commissioner, may be appointed to inspect the 6th schedule property alone.

6. In the result,

(a) this Civil Revision Petition is allowed by setting aside the order dated 08.09.2016, passed by the District Munsif - Cum - Judicial Magistrate Court, Vedasandur, Dindigul District.

(b) the revision petitioners / plaintiffs are given liberty to file a fresh application for appointment of an Advocate Commissioner by restricting their claim in respect of Item No.6 alone,

(c) On filing such application, the learned Judge is directed to consider the same and pass appropriate orders after giving notice to the other side, by appointing an Advocate Commissioner, in respect of Item No.6 of the schedule of property and the Advocate Commissioner is also directed to file a report within a period one month from the date of appointment of an Advocate Commissioner.

(d) On filing such report, the learned Judge is directed to dispose of the Suit in O.S.No.158 of 2015, within a period of four months, thereafter.

No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The District Munsif Court at Vedasandur,
Dindigul District.

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