



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)No.1420 of 2016 (PD)

and

CMP(MD)No.6948 of 2016

1.Mahendran
2.Sobha Rani

...Petitioners/Petitioners/Plaintiffs

Vs.

1.Bright Singh

2.Latha

...Respondents/Respondents/Defendants

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records to the fair and decreetal order passed by District Munsif Court, Virudhunagar in I.A No.614 of 2015 in O.S No.117 of 2011 dated 18.03.2016 and set aside the same.

For Petitioners : Mr.G.Mariappan

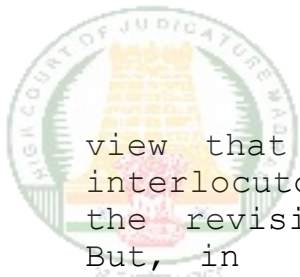
For Respondents : No appearance

O R D E R

OS No.117 of 2011 was filed by the revision petitioners seeking the relief of permanent injunction. In the said suit, the respondents herein have sought a counter claim for mandatory injunction. Considering the nature of the dispute involved, the revision petitioners filed IA No.614 of 2015 for appointment of an Advocate Commissioner. The respondents herein had no objection for allowing the same. But, the court below has chosen to dismiss the interlocutory application by order dated 18.03.2016. The correctness of the said order is questioned in this Civil Revision Petition.

2.Though the respondents have been served and their names also appear in the cause list, they have not chosen to enter appearance either in person or through counsel.

3.Since the respondents themselves have no objection for appointment of an Advocate Commissioner, this Court is of the



view that the Trial Munsif ought to have allowed the said interlocutory application. The court below has observed that the revision petitioners are attempting to gather evidence. But, in this case, the revision petitioners no doubt are the plaintiffs. But then, the respondents have also lodged a counter claim. It would be in the interest of justice, if the report from the Advocate Commissioner is made available. This was also reduce the volume of oral evidence. Therefore, the order impugned in this civil revision petition in I.A No.614 of 2015 in O.S No.117 of 2011 dated 18.03.2016 on the file of the District Munsif Court, Virudhunagar is set aside. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cr1 Side)

// True Copy //

Sub Assistant Registrar

To

1.The District Munsif Court, Virudhunagar.

+1 CC To MR.G.MARIAPPAN, Advocate SR. NO. 79586

CRP (MD)No.1420 of 2016 (PD)

and

CMP (MD)No.6948 of 2016

Skm

TR/SKN/SAR-4 (17.09.2018) 2P 3C