



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.09.2018
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.2431 of 2016 (PD)
and
C.M.P. (MD) No.11451 of 2016

1.Rajalakshmi
Rep. by her power agent
G.Prakasam

2.Prakasam ... Petitioners

Vs.

1.Vimala

2.Mahendran

3.Kannammal

4.Alagirisamy ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 06.09.2016 made in I.A.No.68 of 2016 in O.S.No.459 of 2015, on the file of the Principal District Munsif Court, Kumbakonam.

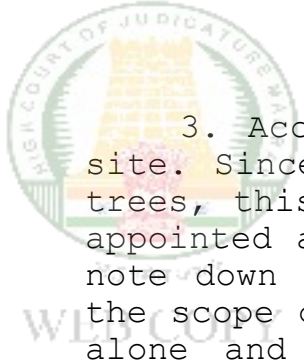
For Petitioners : Mr.G.Karnan

For Respondents : Mr.B.Jameel Arasu
for Mr.S.Balaraman for R.1 & R.2
No appearance for R.3 & R.4

ORDER

Heard the learned Counsel appearing on either side.

2. The plaintiffs in O.S.No.459 of 2015 on the file of the Principal District Munsif, Kumbakonam, are the revision petitioners herein. The suit is for declaration and permanent injunction. The plaintiff wanted an Advocate Commissioner to be appointed, as his contention is that there are certain number of trees standing on the suit property. Therefore, the plaintiffs have filed I.A.No.68 of 2016 and the same was dismissed by the Court below by an order dated 06.09.2016. Questioning the same, the present civil revision petition came to be filed.



3. According to the defendants, the suit property is a vacant site. Since there is a dispute with regard to the existence of the trees, this Court is of the view that the Court below ought to have appointed an Advocate Commissioner to inspect the suit property and note down the existence of the trees alone. It is made clear that the scope of warrant shall be confined to this aspect of the matter alone and nothing else. The plaintiffs cannot use the Advocate Commissioner's report for the purpose of collecting evidence.

4. In this view of the matter, the order impugned herein is set aside and the civil revision petition is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Principal District Munsif,
Kumbakonam.

+1CC to Mr.G.Karnan, Advocate, SR.No.83491

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GK

ES/SKN/RSK/SAR 4/15.10.2018/2P/3C