



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD) (MD) No.782 of 2016
and
C.M.P. (MD) No.3896 of 2016

1.Muthulakshmi
2.Mala

...Petitioners / Petitioners/ Plaintiffs

-vs-

Dakshinamorthy

...Respondent /Respondent
Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 15.10.2015 in I.A.No.4 of 2015 in O.S.No.167 of 2013 on the file of District Munsif, Kulithalai.

For Petitioners : Mr.K.Govindarajan
For Respondent : Mr.S.Deenadhayalan

ORDER

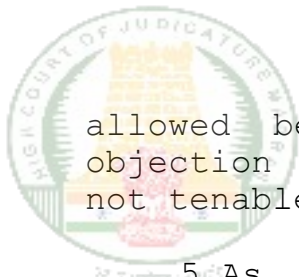
The plaintiffs in O.S.No.167 of 2013 on the file of the learned District Munsif, Kulithalai are the revision petitioners herein. It is a suit for permanent injunction and mandatory injunction. At the time of filing of the suit, an application for appointment of an Advocate Commissioner was allowed. The Advocate Commissioner only inspected the property in question and noted down the physical features of the land alone and submitted a report.

2.Thereafter, a written statement came to be filed. In the written statement dispute regarding identity of the suit property was raised. Therefore, the plaintiffs wanted re-issuance of warrant issued to the Advocate Commissioner for measuring the property with the help of Surveyor. Hence, they filed I.A.No.4 of 2015. The Court below dismissed the said application by order dated 15.10.2015. The correctness of the said order is questioned in this petition,

3.Heard the learned counsel on either side.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The Court below has stated that I.A.No.4 of 2015 cannot be



allowed because, the revision petitioners have not filed any objection to the Advocate Commissioner report. But this reason is not tenable.

5.As rightly pointed out by the learned counsel for the revision petitioners, the petitioners are not really objecting the report earlier submitted by the Advocate Commissioner. According to them, what was done by the Advocate Commissioner in earlier occasion was noting down the physical features of the property. Now, the petitioners want the Advocate Commissioner to measure the property with the help of Surveyor, in view of the reasons stated in the written statement. Therefore, they need not object the earlier report filed by the Advocate Commissioner.

6.In this view of the matter, the order impugned in this Civil Revision Petition is set aside and the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To:

1.The District Munsif, Kulithalai.

2.Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1CC TO MR.S.DEENADHAYALAN, ADVOCATE IN SR.NO.81003.

+1CC TO MR.K.GOVINDARAJAN, ADVOCATE IN SR.NO.80956.

TA

DS PM SAR-2 09.10.2018 2P/6C

C.R.P. (PD) (MD) No.782 of 2016

29.08.2018