



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) No.998 of 2016

and

C.M.P. (MD) No.4944 of 2016

1.Selvakumar
2.Lakshmikandhan

... Petitioners

-Vs-

K.P.C.A.Sheik Mohammed

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to revise the fair and decreetal order passed by the Subordinate Judge, Uthamapalayam, Theni District dated 19.01.2016 made in I.A.No.75 of 2014 in A.S.No.4 of 2014 in O.S.No.116 of 2012 on the file of the District Munsif Court, Uthamapalayam, Theni District of passing an order appointing an Advocate Commissioner for inspection as well as the measurement of the suit property at the instance of surveyor inconsonance with Exhibit A1 to Exhibit A9 and also Exhibit B-1 documents and file the report forthwith along with the sketch of the property.

For Petitioners : Mr.A.Uthayakumar
For Respondent : Mr.George Raja,
For M/s.Ajmal Associates.

ORDER

The defendants in O.S.No.116 of 2012 are the revision petitioners herein. It is a suit for declaration and recovery of possession by removing the encroachments in question. The suit was dismissed. A.S.No.4 of 2014 was filed by the respondent before the Sub Court, Uthamapalayam. In the Appeal Suit, I.A.No.75 of 2014 was filed for appointing an Advocate Commissioner and the same was allowed. Questioning the same, this Civil Revision Petition has been filed.

2.Heard the learned counsel on either side.

3.This Court is of the view that since it is a suit for declaration and recovery of possession by removing the encroachments in question, if the suit is decreed, the rest will follow. There is no need for appointment of Advocate Commissioner. This Court is of the view that the First Appellate



Court erred in allowing I.A.No.75 of 2014 filed by the respondent herein. Therefore, the order impugned in this civil revision petition is set aside.

4. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AD-I)

/TRUE COPY/

Sub Assistant Registrar(CS-I)

To

1.The Subordinate Judge, Uthamapalayam,
Theni District.

2.The District Munsif Court, Uthamapalayam,
Theni District.

+1. C.C. to M/S.Ajmal Associates, Advocate SR.No. 86678

+1. C.C. to M/S.A.Uthayakumar, Advocate SR.No. 86807

C.R.P. (NPD) (MD) No.998 of 2016
24.09.2018

myr
NM SV SAR 1
29 10 2018
2P 5C