



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (MD) No. 1980 of 2018 (PD)

and

C.M.P. (MD) No. 8729 of 2018

1. T. Krishnasamy

2. T. Mohan

... Petitioners/Petitioners/Plaintiffs

Vs.

Lakshmanan

... Respondent/Respondent/Defendant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 21.06.2018 in I.A.No.36 of 2018 in O.S.No.29 of 2017 on the file of the learned Additional Sessions Judge (Fast Track Mahila Court), Karur.

For Petitioners : Mr.K.Govindarajan

For Respondent /

Caveator

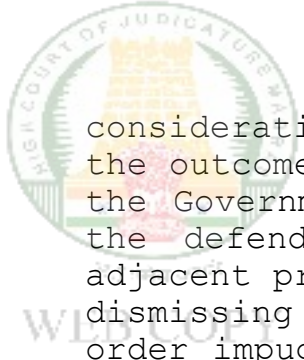
: Mr.H.Lakshmi Shankar

ORDER

The plaintiffs in O.S.No.29 of 2017 on the file of the Additional Sessions Court (Fast Track Mahila Court), Karur, is the revision petitioners herein. It is a suit for declaration and recovery of possession. The plaintiffs filed I.A.No.36 of 2018 for appointing an Advocate Commissioner to survey the suit property, identify the physical features and to file report and plan. The Court below, by order dated 21.06.2018, dismissed the said interlocutory application. Questioning the same, the present civil revision petition has been filed.

2. Heard the learned Counsel appearing on either side.

3. The respondent in his written statement had clearly taken a stand that the issues raised in the suit can be resolved if the suit property and the adjacent properties are surveyed. But then, the Court below has dismissed the said interlocutory application on the ground that the suit property belongs to the Government. In this case, the dispute is only between two private parties. Therefore, all that the Court must see is as to who has got the better title. That the suit property belongs to the Government is an irrelevant



consideration, as far as the present case is concerned. Of course, the outcome of the present proceedings will not, in any manner, bind the Government or affect the rights of the Government. Inasmuch as the defendant himself wanted the suit property as well as the adjacent properties to be surveyed, the Court below clearly erred in dismissing I.A.No.36 of 2018 filed by the plaintiffs. Therefore, the order impugned in this civil revision petition 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-II)

To

The Additional Sessions Judge,
Fast Track Mahila Court,
Karur.

+ 1 CC TO Mr.H.LAKSHMI SHANKAR, ADVOCATE IN SR No. 83771
+ 1 CC TO Mr.K.GOVINDARAJAN, ADVOCATE IN SR No. 83742

GK
TE/SKN/SAR-2 : 28/09/2018 : 2P/4C

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