



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.02.2018
Delivered on : 22.03.2018

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CORAM :

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (PD) (MD) No.2181 of 2011
and M.P. (MD) No.1 of 2011

1.Krishnamma
2.Sobhanakumari
3.Latha

... Petitioners/Petitioners/Plaintiffs

Vs.

1.Suseela
2.Rethnakaran

... Respondents/Respondents/Defendants

PRAYER: Petition filed under Section 227 of the Constitution of India, to set aside the order passed in I.A.No.37 of 2011 in O.S.No.210 of 2007 dated 06.04.2011 on the file of the 2nd Additional District Munsif Court, Kuzhithurai.

For Petitioners : No Appearance
For Respondents : No Appearance

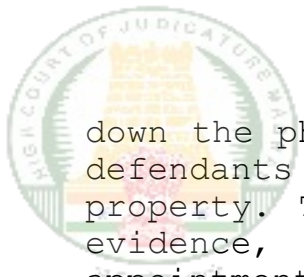
O R D E R

This Civil Revision Petition has been preferred against the order passed in I.A.No.37 of 2011 in O.S.No.210 of 2007, on the file of the II Additional District Munsif, Kuzhithurai.

2. The Interlocutory Application in I.A.No.37 of 2011 was filed by the revision petitioners/plaintiffs for appointment of Advocate Commissioner. The trial Court, after verifying the facts placed before it, observed that the suit property is very much admitted by both parties and possession and enjoyment of the property will be proved only by way of documents and the appointment of Commissioner will not serve any purpose and therefore, the said application was dismissed. Against which, this Civil Revision Petition has been preferred by the petitioners.

3. There is no representation for the petitioners as well as for the respondents. This Court has perused the materials placed on record.

4. On perusal of records, it is observed that the plaintiffs have filed the suit for declaration claiming title and possession over 3/4th share in the suit property and for injunction against the defendants from trespassing into the suit property. The petitioners have filed I.A.37 of 2011 for appointment of Commissioner to note



down the physical features and also to disprove the averment of the defendants that the plaintiffs are not residing in the suit property. The trial court, after perusing the oral and documentary evidence, had dismissed the said application by stating that the appointment of Commissioner will not serve any purpose in the suit.

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5. Further, there is n admission by the respondents that already the property was partitioned and there is no boundary dispute in the suit. Even in the written statement, the defendants have stated that already the plaintiffs filed another suit in O.S.No.675 of 1995 for the very same relief and the same was dismissed on merit. Then it is for the plaintiffs to prove their case through documentary evidence with regard to the Survey number, boundary and possession of the suit property. Therefore, I find no error in the order of the trial court dismissing the said application.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected M.P.(MD)No. 1 of 2011 is also dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To,
The 2nd Additional District Munsif Court, Kuzhithurai.

Copy to:

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai(**2 Copies**)

+1CC to Mr.S.C.Herold Singh, Advocate, SR.No. 57488

C.R.P. (PD) (MD)No.2181 of 2011
and

M.P. (MD)No.1 of 2011
22.03.2018

CM

JM/SV MMS/SAR 4/09.04.2018/2P/5C