

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No.725 of 2019

and

C.M.P.No.4704 of 2019

1.Dharmarajan

2.Susila

...Petitioners/Petitioners/Defendants

Vs

1.Manivel

2.Murali

3.Aridoss

...Respondents/Respondents/Plaintiffs

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 07.07.2018 made in I.A.No.416 of 2018 in O.S.No.113 of 2014 on the file of the learned I Additional District Munsif, Kallakurichi.

For Petitioners : Mr.N. Manokaran

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned I Additional District Munsif, Kallakurichi, in rejecting the petition filed by the revision petitioners/defendants seeking appointment of an Advocate Commissioner to note down the Survey Numbers and the physical features of the suit property as well as that of the property around the suit properties with the help of the Surveyor, measure the properties and to take note of the pipeline running underground and submit a report.

2.The suit has been filed in O.S.No.113 of 2014 by the respondents herein on the file of the learned III Additional District Munsif, Kallakurichi, for an injunction. The suit has been filed in respect of the lands measuring 0.05.0 ares in S.No.15/3A2, Ammaiyakaram Village, Chinnasalem Taluk, Villupuram District. The revision petitioners have filed a Written statement and an Additional Written Statement wherein they have contended that the suit property belongs to the 2nd defendant and the plaintiffs have attempted to take advantage of the mistakes that has been crept in patta. The revision petitioners have also, in their Additional Written Statement, stated that when the lands were acquired, possession was given to the revision petitioners for which the plaintiffs had endorsed "no objection". Pending the suit, the revision petitioners have

come forward with the impugned petition in which they are seeking to expand scope of the suit by seeking her report as to the existence of the pipeline running through the suit property up to the defendants property and to note down the existence of the water tank etc., The said petition has been dismissed by the learned District Munsif, by her order dated 07.07.2018 wherein she would contend that the only attempt on the part of the revision petitioners was to collect evidence. Challenging the said order, the revision petitioners are before this Court.

3. Admittedly, the suit is only with respect to an extent of 0.05.0 ares in Survey Field No.15/3A2 and by appointment of an Advocate Commissioner, the revision petitioners are seeking not only to have the physical features of the suit property and also the physical features of the adjacent properties noted but also to report on the factum of the underground pipeline running up to the properties and the extent of the properties. This as rightly considered by the learned Judge is an attempt to collect evidence about possession. Further, the suit is one for bare injunction. In these circumstances, there is no error in the order passed by the learned District Munsif, Kallakurichi.

This Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mps

To

The I Additional District Munsif,
Kallakurichi.

Copy To: The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.N.Manokaran, Advocate, Sr.No. 17901

C.R.P.No.725 of 2019
and C.M.P.No.4704 of 2019

SR(CO)
CSL/02.05.2019