



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2019

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) .No.953 of 2019 (PD)
and
C.M.P. (MD) .No.5409 of 2019

1.Sundararajan
for Sri Thiruvengkadamudaiyan Thirukkivil,
Vadamalapuram Village,
Thiruthangal via,
Sivakasi Taluk,
Virudhunagar District.

2.Namperumal
for Sri Thiruvengkadamudaiyan Thirukkivil,
Vadamalapuram Village,
Thiruthangal via,
Sivakasi Taluk,
Virudhunagar District.

3.Andal
for Sri Thiruvengkadamudaiyan Thirukkivil,
Vadamalapuram Village,
Thiruthangal via,
Sivakasi Taluk,
Virudhunagar District.

... Petitioners/
Petitioners/Plaintiffs

Vs.

1.K.Gobalasamy
rep. for Sri Thiruvengkadamudaiyan Thirukkivil

2.K.Seenivasan,
rep. for Sri Thiruvengkadamudaiyan Thirukkivil

3.R.Krishnasamy

4.Venkidasamy

5.The District Collector,
District Collectorate,
Virudhunagar District.



6.The Revenue Divisional Officer,
Satchiyapuram,
Sivakasi West,
Sivakasi Taluk,
Virudhunagar District.

... Respondents / Respondents
Defendants

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PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 28.01.2019 passed in I.A.No.343 of 2018 in O.S.No.106 of 2016 by the District Munsif Court, Sivakasi, Virudhunagar District.

For petitioners : Mr.K.Rajeshwaran

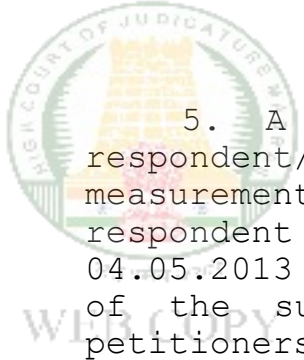
ORDER

This civil revision petition has been filed by the petitioners/plaintiffs against the order dated 28.01.2019 passed in I.A.No.343 of 2018 in O.S.No.106 of 2016, whereby and whereunder the Court below has dismissed the application filed by the petitioners seeking to appoint an Advocate Commissioner to measure the suit properties in terms of sale deed Nos.47/1927 and 48/1927 and actual physical features of the suit property, along with surveyor and to file report.

2. It is seen that the petitioners/plaintiffs have filed the suit for mandatory and permanent injunctions. When the matter was posted for cross examination, the petitioners/plaintiffs filed I.A.No.343 of 2018 for appointment of an Advocate Commissioner. The said application was dismissed by the Court below. Challenging the same, the petitioners/ plaintiffs have filed the present civil revision petition.

3. Heard the learned counsel appearing for the petitioner and perused the records carefully.

4. It is seen that the suit has been filed by the petitioners/plaintiffs for a mandatory injunction directing the 6th respondent/ 6th defendant / the Revenue Divisional Officer to measure the suit property based on the sale deed and physical features of the suit property and issue patta, and for a permanent injunction restraining the respondents 3 and 4 / defendants 3 and 4 from interfering with the possession and enjoyment of the petitioners / plaintiffs and the respondents 1 and 2 / defendants 1 and 2 based on the patta issued by the 6th respondent / 6th defendant. When the matter posted for cross-examination, the petitioners/plaintiffs have filed the application for appointment of Advocate Commissioner stating that the 3rd respondent /3rd defendant disputed the measurement of the suit properties.



5. A perusal of the written statement filed by the 3rd respondent/ 3rd defendant shows that he has not disputed the measurement of the suit properties. According to the 3rd respondent / 3rd defendant, he has purchased the suit properties on 04.05.2013 and since then, he has been in possession and enjoyment of the suit properties by obtaining patta. According to the petitioners/plaintiffs, the suit properties were purchased by their forefathers through a sale deed. The Court below has held that since the main dispute related to possession of the suit properties and there is no dispute with regard to physical features of the suit properties, the appointment of Advocate Commissioner is not necessary. The petitioners/plaintiffs can very well prove their right, title and interest through oral and documentary evidences. This Court does not find any reason to interfere with the order passed by the Court below.

6. In view of the above, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar(CS)

To
The District Munsif,
Sivakasi,
Virudhunagar District.

Copy to: The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.RAJESHWARAN, Advocate, SR-71958.

C.R.P(MD) .No.953 of 2019 (PD)
26.06.2019

CS: 15/07/2019 3P 5C