



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2019

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) No.1148 of 2019
and
C.M.P (MD) No.6217 of 2019

1.M.Poovayee
2.M.Pandiyammal
3.M.Marriyappan
4.M.Subulakshmi
5.M.Selvam
6.Vasantha
7.Marudhayee
8.Muthulakshmi

.. Petitioners/Petitioners
Plaintiffs

Vs.

1.Vijaya
2.Muthu

.. Respondents/Respondents
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 27.03.2019 made in I.A.No.1 of 2019 in O.S.No.391 of 2013 by the Principal District Munsif Court, Aruppukottai.

For petitioners : Mr.K.Prabhu

ORDER

Against the dismissal of commission application, this revision has been filed.

2.The petitioners / plaintiffs filed O.S.No.391 of 2013 for the reliefs of declaration and permanent injunction. Pending suit, the petitioners / plaintiffs filed I.A.No.1 of 2019 seeking to appoint an Advocate Commissioner to demarcate the suit property and to file his report and plan. The Court below has dismissed the same. Against which, the present Civil Revision Petition has been filed.

3.The learned counsel appearing for the petitioners / plaintiffs would submit that in the written statement, the respondents / defendants have stated that some vacant sites are situate in the Village Survey No.18/3. Therefore, the petitioners / plaintiffs have filed the present petition to demarcate the



boundaries of the suit property. But the Court below has erroneously dismissed the same. Thus, he prayed to set aside the same.

4. Heard the learned counsel for the petitioners/ plaintiffs and perused the materials available on record.

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5. Perusal of records shows that the petitioners / plaintiffs have filed the suit for the reliefs of declaration and permanent injunction in the year 2013. The respondents / defendants have also filed their written statement on 24.06.2014 and issues have also been framed on 04.07.2015. When the suit was posted for trial, the present commission petition has been filed. The petitioners / plaintiffs claimed title on the basis of the sale deed dated 15.03.1943 and there is no dispute with regard to the measurement or the identification of the suit property. Therefore, appointment of Advocate Commissioner is not necessary. Moreover, after lapse of five years from the date of filing of written statement, the petitioners / plaintiffs have filed the present commission petition only to drag on the proceedings. The learned Judge after considering the above, has rightly dismissed the petition, which, in my considered opinion, requires no interference at the hands of this Court. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

The Principal District Munsif Court,
Aruppukottai.

+1 CC to M/s.K.PRABHU, Advocate (SR-79364[F] dated 02/08/2019)

ORDER MADE IN
C.R.P (MD) No.1148 of 2019
02.08.2019

smn

JMN(16.08.2019) 2P : 3C