



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2019

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

C.R.P (MD) No.1428 of 2019

and

C.M.P. (MD) .No.7605 of 2019

1.Rajendran
2.Paramasivvam

.. Petitioners /
Petitioners/
Plaintiffs

Vs.

Solaiappan

.. Respondent / Respondent/
Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order, dated 04.01.2019, passed in I.A.No.151 of 2018 in O.S.No.74 of 2008 on the file of the Additional District Munsif Court, Aruppukkottai.

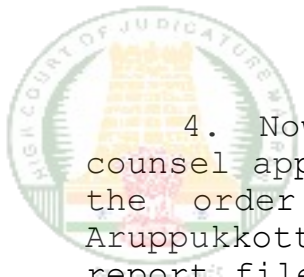
For petitioners : Mr.V.Nagendran

ORDER

The petitioners, who are the plaintiffs in O.S.No.74 of 2008 on the file of the learned Additional District Munsif, Aruppukkottai, preferred this Civil Revision Petition, challenging the order, dated 04.01.2019, passed in I.A.No.151 of 2018 in O.S.No.74 of 2018.

2. In fact, I.A.No.151 of 2018 has been filed by the petitioners before the trial Court seeking the relief of direction directing the Advocate Commissioner to revisit the suit property and to file additional report. After affording sufficient opportunity to the other side, the learned Additional District Munsif, Aruppukkottai, had dismissed the application on 04.01.2019. Only challenging the said order, the petitioners are before this Court.

3. The sole contention raised by the learned counsel appearing for the petitioners is that in the rough sketch submitted by the Advocate Commissioner, he has not specifically stated about the alleged encroachment area. He has further added that only to find out the correct measurement, revisiting the property by the Advocate Commissioner is necessary.



4. Now for considering the submission made by the learned counsel appearing for the petitioners, it is necessary to go through the order passed by the learned Additional District Munsif, Aruppukkottai and on perusal of the same, it reveals that in the report filed by the Advocate Commissioner, he has clearly mentioned the encroachment area as A,B,C,E,F,G,H. In this regard, he has mentioned the measurement as the length of A,B,C-33 feet, C,E-10.2 feet, E,F-14 feet, F,G-17 feet, H,G-4.5 feet and A,H-10 feet.

5. In the said circumstances, it cannot be stated that the Advocate Commissioner did not mention the encroachment area specifically. If really, the petitioners wanted some more explanation in this regard, it is very easy for them to examine the Advocate Commissioner as a witness before the trial Court. Without adopting the said mode, challenging the order passed by the trial Court is unnecessary. In fact, the suit has been filed in the year 2008 and till now, the same has not been disposed. So, considering the facts and circumstances of the case, I am of the opinion that the petition filed by the petitioners is not having any merits and it deserves to be dismissed.

6. Accordingly, this Civil Revision Petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

PJL

To

1.The Additional District Munsif,
Aruppukkottai.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1 CC to M/s.V. NAGENDRAN, Advocate (SR-83416[F] dated 26/08/2019)

C.R.P (MD)No.1428 of 2019
22.08.2019

PJL

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<https://hcservices.ecourts.gov.in/hcservices/>