



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2019

CORAM:

THE HONOURABLE **MR.JUSTICE KRISHNAN RAMASAMY**

C.R.P. (MD)No.1962 of 2017

and C.M.P. (MD)No.9963 of 2017

1.M.Alamarathan

2.A.Muniammal

: Petitioners/Petitioners/Plaintiffs

Vs.

1.Thasildar

Palani Thasilthar Office,
Palani Nagar, Dindigul District.

2.Sub Collector,

RDO Office, Palani,
Dindigul District.

3.District Collector,

Velu Nachiyar Complex,
Karur Road, Dindigul Nagar,
Dindigul District.

4.Ramesh

: Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to allow this revision petition and set aside the order dated 18.08.2017 passed by the District Munsif, Palani, Dindigul District in I.A.No.26 of 2017 in O.S.No.6 of 2017.

For Petitioner : Mr.S.Elangovan

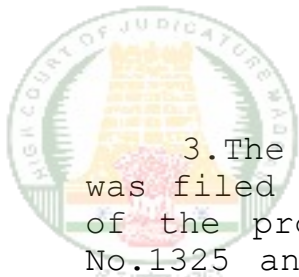
For R1 to R3 : Mr.R.Sethuraman,
Special Government Pleader

For R4 : Mr.T.Leninkumar

ORDER

This Civil Revision Petition has been filed to set aside the order in I.A.No.26 of 2017 in O.S.No.6 of 2017, dated 18.08.2017 passed by the District Munsif, Palani, Dindigul District.

2.The above said Interlocutory application has been filed by the petitioners herein for appointment of an Advocate Commissioner. The Court below dismissed the said application stating that the respondents in the said application have no objections with regard to the identification of the property.



3. The case of the revision petitioners is that the application was filed to appoint Advocate Commissioner to identify the location of the property and to measure the property comprised in survey No. 1325 and to separate the sub-division of S.Nos. 1325/1 & 1325/2 and also to note down the physical features of the aforesaid sub-division properties with the help of a Surveyor, who works under the jurisdiction of other District, except Dindigul District and to file a report. The Court below dismissed the application stating that the respondents have no objections with regard to the identification of the property. However, the appointment of Advocate Commissioner prayed not only for identification of the property, but also to find out the location of the property.

4. The learned Special Government Pleader appearing for the official respondents and the learned counsel appearing for the fourth respondent have no objection for appointment of an Advocate Commissioner for the above said purpose.

5. Heard the learned counsel appearing for the revision petitioner and the respondent.

6. In the present case, the application for appointment of Advocate Commissioner was filed by the plaintiffs/petitioners herein. The said application was rejected by the Court below stating that the respondents herein have no objection with regard to the identification of properties mentioned in the suit. When that being the case, to find out the location of the property, it is not necessary to appoint an Advocate Commissioner before passing any decree in favour of the plaintiff. Once the decree is passed in favour of the plaintiff and if there is any dispute in identification of the property, the plaintiff is at liberty to approach the Execution Court to execute the decree to take possession of the property. If the revision petitioners, who are the plaintiffs, in the suit are not in a position to satisfy the Court with the suit documents about the location of the property, they cannot approach the Court with an application to collect the evidence by appointing an Advocate Commissioner to locate the property, which course of action cannot be permitted. It is for the plaintiffs to establish their case with the available documents before the Court below and based on oral and documentary evidence, they have to get decree. Leaving that apart, the plaintiff cannot approach by way of filing the present application for appointment of Advocate Commissioner for location of the property, which cannot be permitted. Therefore, the Court below has appreciated all these aspects and rightly rejected the application and this Court do not find any infirmity in the order passed by the Court below.



7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The District Munsif, Palani, Dindigul District.

2. Thasildar
Palani Thasilthar Office,
Palani Nagar, Dindigul District.

3. Sub Collector,
RDO Office, Palani,
Dindigul District.

4. District Collector,
Velu Nachiyar Complex,
Karur Road, Dindigul Nagar,
Dindigul District.

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 88850

C.R.P. (MD) No. 1962 of 2017
20.09.2019

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TR (05.11.2019) 3P 6C