



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P(MD)No.2295 of 2019

and

C.M.P. (MD)No.12075 of 2019

WEB COPY

1.Anantharaja
2.Muniyasamy

...Petitioners/Respondents 1 and 2/
Defendants 1 and 2

-Vs-

1.Pramoth Shankar
2.Niranjan Sankar
3.Pradeep Poopathi
4.Saranya Poopathi
5.Nandhitha Poopathi
6.Meenatchi Poopathi

... Respondents 1 to 6 / Petitioners/
Plaintiffs

7.Bhabu

8.The Tashildar,

Tashildar Office, Sivakasi. ...Respondents 7 and 8 /

Respondents 3 and 4 / Defendants 3 and 4

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order passed by the District Munsif Court, Sivakasi in I.A.No.60 of 2019 in O.S.No.172 of 2016, dated 05.09.2019.

For Petitioners

: Ms.Lakshmi Gopinathan,
for M/s. Polax Legal Solutions

ORDER

This Civil Revision Petition is filed against the fair and decreetal order passed in I.A.No.60 of 2019 in O.S.No.172 of 2016, appointing the Advocate Commissioner to note down the physical feature of the suit property.

2.The suit itself filed for declaration of title and consequential injunction. In the above suit, an application has been taken out for appointment of the Advocate Commissioner to note down the physical feature of the suit property. The trial Court, in fact, has found that though the Commissioner cannot be appointed to gather the evidence, mere noting down the physical feature will not prejudice anybody. Accordingly, the Advocate Commissioner was appointed.



3.This Court is of the view that the order of the trial Court does not require any interference for the simple reason that in fact, the Advocate Commissioner has not been appointed to gather any evidence. The Advocate Commissioner has been appointed only to note down the physical feature of the suit property. Mere noting down the physical feature by the Advocate Commissioner would not enable the parties to take it as evidence to prove their possession or title. The possession or title has to be independently proved by the parties.

4.In such view of the matter, mere appointing the Advocate Commissioner to inspect the suit property and note down the physical feature, is no way prejudice to the petitioners herein. Accordingly, I do not find any perversity in the order of the trial Court.

5.Accordingly, this Civil Revision Petition is dismissed at the admission stage itself. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl side)

// True Copy //

Sub Assistant Registrar(CS)

Myr

To

1.The District Munsif Court, Sivakasi.

2.The Section Officer,(2 copies)

V.R. Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.POLEX LEGAL SOLUTION, Advocate (SR-104672[F] dated 12/12/2019)

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