



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.467 of 2020
and
C.M.P.No.2510 of 2020

1. Maheshwari
2. S.Kalaiarasan
3. S.Yuvarani

.. Petitioners/Plaintiffs

Vs.

J.Venmani Jayakumar

.. Respondent/Defendant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed by the learned District Munsif, Krishnagiri in I.A.No.2 of 2019 in O.S.No.83 of 2014 dated 27.11.2019.

For Petitioners : Mr.K.Gandhikumar

O R D E R

Present revision has been filed against the order dismissing the petitioners' application to appoint an Advocate Commissioner.

2. The petitioners are the plaintiffs in the suit. The suit is for a declaration declaring the plaintiffs' title in the suit schedule property and also for a mandatory injunction to remove the encroached superstructure and also for a permanent injunction restraining the defendant from putting up further encroachment.

3. In the above suit, the petitioners have filed an application to appoint an Advocate Commissioner to note down the physical features of the suit schedule property and also to measure the existing building allegedly constructed by the defendant and also to find out if any pathway is existing in the suit schedule property. That application came to be dismissed by the trial Court. Now, challenging the same, present revision has been filed.



4. I have heard the learned counsel appearing for the petitioners and also perused the records carefully.

5. It is a suit for declaration and also for permanent injunction. Now, the trial is over and the suit is posted for arguments. At this stage, the petitioners have come up with the present application seeking appointment of an Advocate Commissioner to note down the physical features and also to find out if any pathway is available in the suit schedule property. The trial Court dismissed the application holding that the suit is filed in the year 2014 and after the trial is over and when the suit is posted for arguments and after keeping quite for more than five years, now the petitioners have filed the present application belatedly and that to without any valid reason. That apart, the V.A.O. and the Surveyor were also examined in this case and therefore there is no necessity to appoint an Advocate Commissioner, which amounts to reopening the suit and conduct a de novo trial. The trial Court considering all the above aspects dismissed the application. I do not find any illegality or irregularity in the same as the trial Court has rightly dismissed the said application. There is no merit in the revision and the same is liable to be dismissed.

6. In the result, the civil revision petition is dismissed and the order of the Court below, impugned in this revision is hereby confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD I)

//True Copy//

Sub Assistant Registrar

kk

To

The District Munsif,
Krishnagiri.

+1cc to Mr.Gandhikumar, Advocate, S.R.No.9732

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PP(CO)
KKV/13/07/2020