

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P.No.2184 of 2015

and

MP.No.1 of 2015

Idumbaiyan (died)

1. Tamilselvi

2. Prakash

3. Prathiba (minor)

... Petitioners

Vs.

Kunjithabatham

... Respondent

Prayer :- This Civil revision has been filed under Article 227 of the Constitution of India to set aside the I.A.No.904 of 2014 in O.S.No.31 of 2011 dated 19.02.2015 on the file of the District Munsif Court, Nagapattinam and allow the Civil Revision Petition.

For petitioner : Mr. R. Subramanian

O R D E R

This Civil Revision Petition has been filed against the order dismissing the petitioners' application to appoint an Advocate Commissioner to note down the physical features of the suit property.

2. The petitioners are the plaintiff in the suit. They filed a suit in O.S.No.31 of 2011 on the file of the District Munsif Court, Nagapattinam for permanent injunction restraining respondent from interfering with their peaceful possession and enjoyment of the suit schedule property. Pending suit, the petitioners had filed an application to appoint an Advocate Commissioner to note down the physical features of the suit schedule property in I.A.No.904 of 2014 and the same came to be dismissed by the trial Court on 19.02.2015. Now, challenging the same, the present revision has been filed.

3. Heard the learned counsel for the petitioner and perused the materials available on records carefully.

4. The suit is filed by the petitioner for permanent injunction, claiming to be in possession of the suit schedule property. However, it was disputed by the respondent/defendant. When the matter was listed for trial, the petitioners came forward with the application to appoint an Advocate Commissioner to note down the physical features of the suit property. The trial Court, dismissed the application stating that there is no dispute regarding the identity of the property and the

possession of the property cannot be ascertained by way of appointing an advocate commissioner and that apart, by appointing an Advocate Commissioner, the petitioners cannot collect evidence. I have gone through the materials carefully. I find no irregularity or illegality in the order passed by the Court below. The Court below, after considering the entire materials, rightly dismissed the application and I find no merit in the revision.

5. Accordingly, the Civil Revision Petition is dismissed. However, considering the fact that the suit is pending from the year 2011, the trial Court is directed to proceed with the trial and dispose the same within a period of six (6) months from the date of receipt of a copy of this order, after giving opportunity to both the parties, on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO MDU)

//True copy//

Sub Assistant Registrar

mrp

To

The District Munsif Court, Nagapattinam

C.R.P.No.2184 of 2015

RLA (CO)
GMY (27/07/2020)

सत्यमेव जयते

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