

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2902 of 2018
and
C.M.P.No.16982 of 2018

1.Thangammal
2.Ponnian (alias) Baskar
3.Poomalar

...Petitioners/Defendants

Vs.

Parvathi

...Respondent/Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of Indian, to set aside the fair order and decree order dated 06.01.2018 in I.A.No.585 of 2017 in O.S.No.326 of 2012 passed by the learned Additional District Munsif, Namakkal.

For Petitioners : Mr.R.Prasadh

For Respondent : Mr.M.Aniruthan

ORDER

The defendants in the suit in O.S.No.326 of 2012, whose application for appointment of an Advocate Commissioner to note down their actual physical possession of the suit property was dismissed by the Trial Court, have come up with this Revision.

2. Heard, Mr.R.Prasadh, learned counsel appearing for the petitioners and Mr.M.Aniruthan, learned counsel appearing for the respondent.

3. The suit in O.S.No.326 of 2012 is a suit for bare injunction, filed by the respondent/plaintiff, restraining the defendants from interfering with her possession of the suit property. Pending suit, the defendants have come with this application claiming that they are in possession of the property and have also cultivated food grains and they wanted those facts to be noted by the Advocate Commissioner. I am afraid that such an exercise cannot be carried out by the Court dealing with a suit for permanent

injunction that too at the instance of the defendants. In a suit for bare injunction, it is for the plaintiff to prove her possession. The plaintiff would succeed if the plaintiff is able to establish her possession. The appointment of Commissioner to ascertain as to who is in possession of the property, that too in a suit for bare injunction, is unknown to law. I, therefore, do not see any merit in the Revision.

4. Hence, this Civil Revision Petition fails and it is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

01-09-2020

Internet: Yes
Index : No
Speaking order
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To

The Additional District Munsif Court, Namakkal.

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R.SUBRAMANIAN, J.
dna



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