



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRP (MD) No.407 of 2020

and

CMP (MD) No.2342 of 2020

Muruga Konar (died)

- 1.Sudalai
- 2.Murugan
- 3.Petchiammal
- 4.Madathiammal
- 5.Ulagammal
- 6.Pattan
- 7.Kombaiah

.. Petitioners

Vs.

- 1.Murugeswari
- 2.Muthuselvi
- 3.Maniraj

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 09.01.2020 made in I.A.No.619 of 2019 in O.S.No.126 of 2015 on the file of the District Munsif Court, Kovilpatti.

For Petitioners : Mr.K.Hema Karthikeyan

ORDER

The petitioners herein filed a suit for bare injunction in O.S.No.126 of 2015 before the District Munsif Court, Kovilpatti in the year 2015. During pendency of the suit, the petitioners/plaintiffs have filed an Interlocutory Application in I.A.No.619 of 2019 to appoint an Advocate Commissioner to identify and measure the suit property. The learned trial Judge dismissed the petition. Challenging the dismissal order passed by the trial Court in I.A.No.619 of 2019, the petitioners/plaintiffs filed the present Civil Revision Petition.

2.The learned counsel for the petitioners submitted that there is a dispute regarding identification of the suit property. Therefore, it is necessary to measure the property and identify the same.

3.Heard the learned counsel for the petitioners and perused the entire records.



4. On a careful perusal of the records it is seen that the petitioners have filed the suit for bare injunction against the respondents. Once they filed a suit for bare injunction, it is a settled principle of law that no Advocate Commissioner can be appointed to find out the possession. The suit itself is filed for bare injunction. It means the petitioners are in possession of the identified property and therefore, they cannot seek the prayer to appoint an Advocate Commissioner to identify the property. Under these circumstances, this Court does not find any perversity in the order passed by the trial Court. There is no merit in the petition and the same is dismissed in the admission stage itself. No costs. Consequently, CMP(MD)No.2342 of 2020 is closed.

Sd/-

Assistant Registrar (Records)

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Sub Assistant Registrar(CS)

mj

To

The District Munsif,
Kovilpatti.

CRP(MD)No.407 of 2020
04.03.2020

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