



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (PD) (MD)No.467 of 2020

and

C.M.P(MD)No.2880 of 2020

1.M.Kalirajan

2.M.Ashok Kumar

.. Petitioners/Petitioners/Plaintiffs

Vs.

Kalimuthu

.. Respondent/Respondent/Defendant

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decreeal Order dated 13.01.2020 passed in I.A.No.288 of 2019 in O.S.No.96 of 2017 on the file of the District Munsif Court, Thiruvadanai by allowing this Revision Petition.

For Petitioners : M/s.K.Abiya

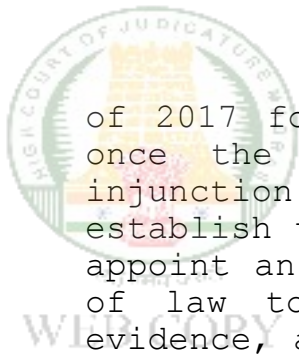
ORDER

The petitioners are the plaintiffs in the suit in O.S.No.96 of 2017. The respondent is the defendant in the said suit. The petitioners / plaintiffs filed a suit in O.S.No.96 of 2017 on the file of the District Munsif Court, Thiruvadanai against the respondent for bare injunction and mandatory injunction. The suit is filed in the year 2017. During the pendency of the suit, the petitioners filed a petition to appoint an Advocate Commissioner, which was dismissed on 13.01.2020. Challenging the said order, the petitioners / plaintiffs filed this Civil Revision petition.

2. The learned Counsel appearing for the petitioners would submit that the respondent himself has stated in his written statement that appointment of an Advocate Commissioner is necessary. He also submit that to demarcate the four boundaries of the schedule mentioned properties by measuring the said properties by metes and bounds in order to prevent the defendants from laying electrical wires on the lane and also from putting up fence. Therefore, appointment of Advocate Commissioner is necessary.

3.Heard and perused the entire materials available on record.

4.Admittedly, the petitioners have filed a suit in O.S.No.96



of 2017 for bare injunction and mandatory injunction. Therefore, once the petitioner himself admitted that the suit for bare injunction and also for mandatory injunction, it is for them to establish the possession and there is no necessity for this Court to appoint an Advocate Commissioner. It is a well settled proposition of law to establish the factum of possession and collect the evidence, an Advocate Commissioner cannot be appointed.

5.Considering the nature of claim sought for by the petitioners, the Trial Court has given a reasoned order, dismissing the petition filed by the petitioners for appointment of an Advocate Commissioner. On a perusal of records, this Court does not find any perversity in the order. Therefore, this Court finds no merits in this revision.

6.Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rm

To

The District Munsif Court,
Thiruvadanai

+1 CC to M/s.K.ABIYA, Advocate (SR-12314[F])

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SP (08.05.2020) 2P-3C