

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.3901 of 2016

and

CMP.No.19858 of 2016

1. R.Subramanian

2. S.Krishna Rao

... Petitioners

Vs.

R.Chellappa

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow the C.R.P. by setting aside the fair and decretal order dated 07.04.2016 passed by the District Munsif Court, Poonamallee, made in I.A.No.234 of 2016 in O.S.No.436 of 2015.

For Petitioners : Mr.M.V.Seshachari

For Respondent : Died

ORDER

सत्यमेव जयते

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.234 of 2016 in O.S.No.436 of 2015 dated 07.04.2016 on the file of the learned District Munsif, Poonamallee, thereby, allowing the petition to appoint an Advocate Commissioner and to note

down the physical features of the suit property.

2. The learned counsel for the petitioners submitted that the respondent is the plaintiff and the petitioners are the defendants. The respondent filed the said suit for injunction restraining the petitioners from in any manner vacating the respondent except by due process of law. While pending the suit, the respondent filed a petition for appointment of Advocate Commissioner to note down the physical features of the suit property. It is nothing but collection of evidence, since the respondent categorically admitted that there is a building in the suit property.

3. On a perusal of the affidavit filed in support of the Commissioner's application, it is seen that the respondent sought for appointment of Advocate Commissioner for the purpose of local inspection to note down the physical features like the existence of the building, age of the house and also to note down the physical features. Though the Court below did not state any reason for appointment of Advocate Commissioner, if the Advocate Commissioner is appointed, no prejudice would be caused to the respondent, since admittedly there is a building in the suit property.

Therefore, this Court finds no infirmity or irregularity in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. However, the warrant of appointment of an Advocate Commissioner is restricted only to note down the physical features of the petition premises. Further, the suit is of the year 2015. The trial Court is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. The learned counsel for the petitioners submitted that the sole respondent died. However, the petitioners are at liberty to take steps to implead the Legal Heirs of the deceased/respondent before the trial Court. Consequently, the connected Miscellaneous Petition is closed. No costs.

25.02.2021

Speaking/Non-speaking order

Index : Yes/No

kv

To

The District Munsif, Poonamallee.

G.K.ILANTHIRAIYAN,J.

Kv



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