

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM

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

CRP.PD.No.16 of 2017 and
CMP.No.91 of 2017

1.A.Thirumalai
2.A.Nagaraj

..Petitioners

Vs.

1.Poongavanam
2.Rani
3.Mangaiyarkarasi
4.Renuka

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India praying against the fair order and decretal order passed in IA.No.322 of 2015 in OS.No.104 of 2013 dated 07.12.2015 on the file of the III Additional District Judge, Thiruvallur at Poonamallee

For Petitioners : Mr.J.Ram

For Respondents

For R1 : Mr.S.Sai Shankar
R2 to 4 : notice served

ORDER

This civil revision petition is filed against the fair order and decretal order passed in IA.No.322 of 2015 in OS.No.104 of 2013 dated 07.12.2015 on the file of the III Additional District Judge, Thiruvallur at Poonamallee thereby dismissing the petition for appointment of advocate commissioner.

2. The petitioners are the plaintiffs. The respondents are the defendants in the suit filed by the petitioners for declaration and injunction. While pending the suit, the petitioners sought for appointment of advocate commissioner to note down the physical features of the suit property. The trial court dismissed the same stating that appointment of advocate commissioner is nothing but gathering evidence.

3. On perusal of the documents revealed that the petitioners filed suit on the strength of the sale deed dated 23.01.1919. Therefore, the petitioners have to prove their case by let in evidence. Without even knowing the present status of the suit property, they sought for appointment of advocate commissioner to verify the suit property in respect of its status, which cannot be permitted and it amounts to

collection of evidence. Therefore, the court below rightly dismissed the petition and this Court finds no irregularity or infirmity in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

26.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
lok



WEB COPY

G.K.ILANTHIRAIYAN,J.

lok

To

The III Additional District Judge,
Thiruvallur at Poonamallee



CRP.PD.No.16 of 2017

WEB COPY

26.02.2021