

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM

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

C.R.P.(PD) No.3361 of 2018 and
CMP.No.19057 of 2018

1.Nagaraj Muthaliar
2.Palanisamy
3.Lakshmi

... Petitioners

Vs

1.Nainathammal
2.M.Mahalingam
3.Thirunavukkarasu

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 22.03.2018 made in IA.No.498 of 2017 in IA.No.304 of 2014 in OS.No.59 of 2014 on the file of the District Munsif Court at Rasipuram.

For Petitioners : Mr.T.L.Thirumalaisamy

For Respondents : Mr.R.Raghavendran
for Mr.R.Murali

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 22.03.2018 made in IA.No.498 of 2017 in IA.No.304 of 2014 in OS.No.59 of 2014 on the file of the District Munsif Court at Rasipuram, thereby dismissing the petition for re-issuance of warrant to the advocate commissioner.

2.The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed suit for declaration and mandatory injunction. While pending suit, the petitioners filed petition seeking appointment of advocate commissioner to note down the physical features of the suit property and note down the encroachment portion by the respondents herein. The said application was allowed and the advocate commissioner visited the suit property. Thereafter, he also filed his report along with the plan. The case of the petitioners is that after the visit of the advocate commissioner to the suit property, again the respondents encroached some portion of the suit property and put up construction. Therefore, they again filed petition for re-issuance of warrant to the advocate commissioner to visit the suit property once again. The court

below rightly dismissed the same for the reason that the petitioners can seek any relief on the basis of the earlier advocate commissioner's report in the main suit. That apart, already the advocate commissioner visited the suit property and noted down the encroachment portion in the suit property.

3. Therefore, no purpose would be served by re-issuance of warrant to the advocate commissioner, and this Court finds no infirmity or illegality in the order passed by the court below. However, the petitioners are always at liberty to let in evidence to that effect.

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

सत्यमेव जयते

13.07.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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C.R.P.(P.D).No.3361 of 2018

G.K.ILANTHIRAIYAN,J.

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To

The District Munsif Court
at Rasipuram.



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