



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P(MD).No.711 of 2021 and
CMP(MD).No. 3862 of 2021

1. Arunachalam @ Sait
2. Palaniyandi :Petitioners/Petitioners/Defendants

Vs.

1.Muthulakshmi
2.Sounthiravalli
3.Palanisamy @ Chelladurai :Respondents/Respondents/Plaintiffs

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 12.03.2020 passed in I.A.No.101 of 2019 in O.S.No.29 of 2013 on the file of the Additional District Court, Pudukkottai.

For petitioner : Mr. G. Sridharan

ORDER

This Civil Revision is directed against the order dated 12.03.2020 passed in I.A.No. 101 of 2019 in O.S.No. 39 of 2013 dismissing the application filed under Order XXVI Rule 2 CPC for appointment of Advocate Commissioner.

2. I have heard the learned counsel appearing for the petitioners.

3. The respondents, who are the plaintiffs, have filed the above suit for partition and when the case was posted for defence side evidence, the revision petitioners have filed the above application for appointment of Advocate Commissioner to examine one Chinnathambi, who was the then Chairman of the Illuppur Panchayat, allegedly presided over the partition process.

4. The trial Court, after enquiry, dismissed the application since the petitioners have neither pleaded nor proved the requirements as contemplated under order XXVI Rule 2 CPC.

5. Considering the above, the decision of the trial Court in dismissing the application in I.A.No. 101 of 2019 in O.S.No. 39



of 2013, cannot be found fault with.

6. At this juncture, the learned counsel for the petitioners would submit that they are ready to examine the said witness through Video conferencing and necessary permission or liberty may be accorded. Recording the said permission, the petitioners are given liberty to file a necessary application for examining the witness through Video conferencing and if such application is filed, the trial Court is directed to consider the same and pass orders in accordance with law.

7. With the above observation and direction, this Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Additional District Court, Pudukkottai.

+1 CC to M/s.G.SRIDHARAN, Advocate (SR-17228[F] dated 23/04/2021)

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