



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.R.P. (MD) (NPD) No.1299 of 2014

and

M.P (MD) No.1 of 2014

Palaniappan

... Petitioner/Respondent No.1/
Plaintiff

-vs-

1.Thavamani

2.Vijaya Chandrika

... Respondents/Petitioners/
Defendants 2& 3

3.Nagarathinam

... Respondent/ Respondent No.2/
Defendants

4.Arumugam

...Respondent/Respondent No.3/
Defendant 1

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the impugned fair and decreetal order dated 11.06.2014 made in I.A.No.21 of 2013 in O.S.No.57 of 2011 on the file of District Munsif Court, Periyakulam, set aside the same and allow this civil revision petition.

For Petitioner : Mr.K.Appadurai

For R1 & R2 : Mr.R.Shankar Ganesh

For R3 & R4 : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 11.06.2014 made in I.A.No.21 of 2013 in O.S.No.57 of 2011 on the file of District Munsif Court, Periyakulam.

2.The facts of the case are that the petitioner is the plaintiff and the respondents are the defendants. The suit in O.S.No.57 of 2011 was filed for permanent injunction. In the suit, the respondents 1 and 2 have filed the above application, seeking to appoint an Advocate Commissioner. Since the said application was allowed, by the impugned order, this Civil Revision Petition has been filed by the petitioner/plaintiff.

3.The learned counsel for the petitioner would submit that the respondents 1 and 2 had purchased the suit property from the third respondent, who has no title or any document for possession and the entire defence of respondents 1 and 2 is on the basis of fake sale deed in the year 2009 from the third respondent and therefore, the respondents have no valid defence in the suit and hence, any application to appoint the Advocate Commissioner is not



maintainable. The Court below erred in allowing the application on mere contention of the respondents that the boundaries of suit properties are varied. Hence, he would pray for setting aside the impugned order, by allowing this civil revision petition.

4.The learned counsel for the respondents has submitted that the Court below has rightly allowed the application. Hence, this Civil Revision Petition is liable to be dismissed.

5. In this case, the respondents 1 and 2 had filed the application, stating that since the four boundaries of the suit schedule properties are varied, to identify the same, an appointment of Advocate Commissioner is necessary. Considering the said contention, the Court below had rightly allowed the application, by the impugned order, which, in the opinion of this Court, does not suffers from any infirmity, warranting interference.

6.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp/msa

To

The District Munsif Court,
Periyakulam.

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-22992[F] dated 16/07/2021)

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and

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RD(6.08.2021) 2P 3C