



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 23.9.2021.

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. (MD) No.2598 of 2014

and

M.P.No.1311 of 2016

WEB COPY

- 1.Mani @ Elango
- 2.Devarakam @ Thiyagarajan
- 3.Chinnaponnu
- 4.Sivagami
- 5.Sivakumar
- 6.Pramila

... Petitioners/Petitioners/Plaintiff

vs.

- 1.Kannappan Asari @ Karuppanna Asari
- 2.Thangarasu
- 3.Palanichamy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Decreetal order dated 2.4.2013 passed in I.A.No.808 of 2012 in O.S.No.28 of 2012 on the file of the District Munsif, Kulithalai, Karur District.

For Petitioners : Mr.K.Baalasundharam

For Respondents : Mr.V.Karuna

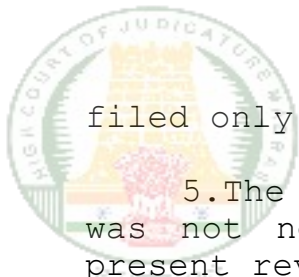
ORDER

The revision has been filed against the dismissal of the petition seeking to appoint an Advocate Commissioner.

2.The petitioners are the plaintiffs in O.S.No.28 of 2012 seeking for a declaration and injunction.

3.It is the case of the petitioners/plaintiffs that the defendants had denied the title of the petitioners, boundaries, extent of the suit properties and the nature of the land which necessitated the petitioners/plaintiffs to seek for appointment of Advocate Commissioner to inspect the suit property with the help of qualified surveyor and note down the physical features and measure the property and also to note down the four boundaries and file his Report and Plan which would minimise the volume of oral evidence.

4.The respondents/defendants had filed counter stating that they have clearly stated about the boundaries and address in the written statement and the respondents have been in possession and enjoyment of the suit properties and are having necessary title documents in respect of the suit properties and that petition was



filed only with an intention to drag on the proceedings.

5.The court, finding that appointment of Advocate Commissioner was not necessary, had dismissed the petition against which the present revision has been filed.

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6.Learned counsel for the petitioners would submit that the respondents had denied the title of the petitioners and they had also disputed the boundaries and extent of the suit properties and the nature of the land and thereby in order to elucidate the matter in dispute, the petitioners have filed the petition seeking for appointment of Advocate Commissioner whereas the Trial Court, without properly considering the plea of the plaintiffs, had dismissed the same against which the present revision petition had been filed.

7.Learned counsel for the respondents would submit that the Trial Court, finding that the dispute in the suit was only with regard to title and there is no dispute with regard to the extent or boundaries of the suit property, had dismissed the suit.

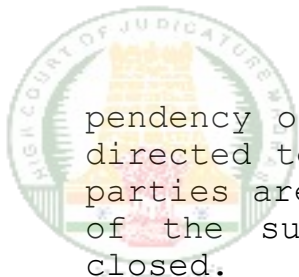
8.Heard the learned counsel for the parties and perused the materials available on record.

9.The suit is only for declaration of title and injunction in respect 3 acres and 9 cents in Survey No.767/3 of Kalugur Village, Kulithalai Taluk, Karur District. A perusal of the pleadings would show that the plaintiffs themselves admit the existence of a sale deed dated 10.11.1986 in favour of the first defendant in respect of a portion of the suit property viz., 2 acres 20 cents, of course claiming the same to be a nominal document and no right or title was conveyed by such document and the defendants resist the suit by basing their claim on such a document alone.

10.Therefore, with regard to the extent of the property in dispute, there is already sufficient documentary evidence and the parties can very well establish their case through oral and documentary evidence and necessity for appointment of Advocate Commissioner does not arise as there is no dispute over identity of the suit property. This aspect has been properly appreciated by the court below.

11.I do not find any infirmity in the order passed by the Trial Court. Further, a Report in D.No.2962/2021 dated 3.9.2021 has been received from the court below stating that PW1 had been examined on 6.12.2019 and the case is pending for cross-examination of PW1 and that the plaintiffs had filed a Petition under Order VII Rule 14(3) before the Trial Court on 19.3.2021.

12.In view of the above, the civil revision petition fails and <https://hcservices.ecourt.gov.in/hcservices/> accordingly, dismissed. However, considering the



pendency of the suit for about nine long years, the Trial Court is directed to complete the trial as expeditiously as possible and the parties are also directed to co-operate for the expeditious disposal of the suit. No costs. The connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssk.

Note: In view of the present lock down owing to COVID 19 pandemic, a web copy of the order may be utilised for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

District Munsif,
Kulithalai,
Karur District.

Copy to:

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

**C.R.P. (MD) No.2598 of 2014
and**

**M.P.No.1311 of 2016
23.9.2021**

NSN(CO)/RS (08.10.2021) 3P 4C