



WEB COPY

C.R.P. (PD) No.1940 of 2022
and C.M.P. No.9831 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.1940 of 2022
and C.M.P. No.9831 of 2022

- 1.K.Palanisamy
- 2.K.Padmavathy
- 3.A.Ammasi
- 4.C.Ranagasamy
- 5.V.Raji
- 6.A.Venkatachalam
- 7.K.Ammasi
- 8.V.Arumugam

- Kulandaiammal (died)
- 9.K.Sundaram
 - 10.U.Arthanari
 - 11.N.Palanisamy
 - 12.P.Elumalai

- P.Perumal (died)
- 13.V.Manickam
 - 14.C.Murugesan
 - 15.Srinivasan
 - 16.Nivetha

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Petitioners

(Cause title accepted vide order dated 09.06.2022 made in C.M.P.No.8841 of 2022 in C.R.P.SR.No.4789 of 2022)

versus



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1.The District Collector,
Collectorate, Salem.

2.The Tahsildar,
Salem West, Sooramangalam,
Salem.

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Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.10.2021 made in I.A.No.1 of 2021 in O.S.No.715 of 2017 on the file of the learned II Additional District Munsif, Salem.

For Petitioners	: Mr.T.S.Vijaya Raghavan
For Respondents	: Mr.E.Vijay Anand Additional Government Pleader

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned II Additional District Munsif, Salem, dated 26.10.2021 made in I.A.No.1 of 2021 in O.S.No.715 of 2017.

2. The revision petitioners are the plaintiffs in the suit and they have filed the suit for permanent injunction. During the pendency of the suit, the petition in I.A.No.1 of 2021 was filed by the petitioners for appointing a Commissioner to inspect the suit property and file his report



and the same was dismissed. Aggrieved over that, the petitioners have filed the present Civil Revision Petition.

3. The learned counsel for the petitioners submitted that the respondents / defendants have contended that the suit properties are mining lands, but in fact that they are cultivable lands and the petitioners are in possession and cultivating the same. If a Commissioner is appointed and he visits the suit property, the physical features can be noted down and his report will be helpful to prove the petitioners case.

4. The learned trial Judge has chosen to dismiss the petition by stating that Commissioner cannot be appointed for the purpose of collecting evidence. The suit is for permanent injunction by claiming possession of the plaintiffs in the suit properties. So, the matter in issue is whether the plaintiffs are in possession of the suit property or not. In such type of matters, appointment of Commissioner is not necessary. When the physical features of the suit properties are not relevant and the plaintiffs are obliged to prove their possession by producing relevant documents showing their alleged possession over the suit property, the learned trial Judge is right



in dismissing the petition by making a correct observation that the matter in issue does not require the report of the Commissioner. Hence, I do not find ground for interference.

5. Accordingly, this Civil Revision Petition is dismissed and the order dated 26.10.2021 passed by the learned II Additional District Munsif, Salem in I.A.No.1 of 2021 in O.S.No.715 of 2017 is hereby confirmed. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

24.06.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To
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Salem.
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R.N.MANJULA, J.

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