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C.R.P.(PD) No.1694 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(PD).No.1694 of 2022
and C.M.P.No.8552 of 2022

1.E.Vijayakumar
2.Balasubramaniam
3.Prabakaran
4.Suresh
5.Sowarnam
6.Mohanambal

... Petitioners

Vs.

Palanivel

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India challenging the fair and final order dated 02.02.2022 made in I.A.No.45 of 2018 in I.A.No.928 of 2015 in O.S.No.152 of 2015 passed by the District Munsif Court, Rasipuram.

For Petitioners : Mr.B.Jawahar

ORDER

This Civil Revision Petition has been filed challenging the order of the learned District Munsif Court, Rasipuram dated 02.02.2022 made in I.A.No.45 of 2018 in I.A.No.928 of 2015 in O.S.No.152 of 2015.



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2.The revision petitioners are the defendants in the suit. Earlier, the respondent/plaintiff has filed a petition in I.A.No.928 of 2015 for appointment of Commissioner to inspect the suit property along with a Surveyor and take measurement of the same and file a report. The same was allowed and a report of the Commissioner was also filed. Subsequently, the petitioners/defendants have filed another I.A.No.45 of 2018 and prayed to scrap the survey plan filed along with the Commissioner report and to appoint a new Commissioner in order to undertake the same work. The said petition was also dismissed. Aggrieved over that, the revision petitioners have preferred this present petition.

3.The learned counsel for the petitioners submitted that the measurements given in the survey plan attached with the Commissioner report is not correct and it is wrong to take the assistance of the private surveyor when the Commissioner inspected the suit property. Before allowing this petition, the learned trial Judge took oral evidence in this petition and the first revision petitioner examined himself as P.W.1. During his cross examination, he admitted that there is no discrepancy in measurement of the suit property and it is correct. Having admitted that



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there is no discrepancy in the measurement seen in the survey plan, the petitioners cannot file a petition to scrap the same and to appoint a new Commissioner. At the time of inspection of the Commissioner, the revision petitioners were very much present. However, they did not file any memo of objection to the Commissioner. Even after the report was filed, the revision petitioners were at liberty to file their objection. If any such objections were filed, it is always at their liberty to establish the same at the time of examination their witnesses.

4.The learned counsel for the petitioners further submitted that the documents which are proposed to be filed by the defendants would show that the survey plan attached to the Commissioner report is not correct.

5.The revision petitioners/defendants are always at liberty to seek the leave of the Court to file the documents which they rely on, if they are admissible. So no prejudice would be caused to the petitioner. Hence, I do not find any reason to scrap the survey plan and appoint a new Commissioner to undertake the same exercise. The learned trial Judge is right in dismissing the petition.



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6. Accordingly, the Civil Revision Petition is dismissed and the order of the learned District Munsif, Rasipuram dated 02.02.2022, made in I.A.No.45 of 2018 in I.A.No.928 of 2015 in O.S.No.152 of 2015, is hereby confirmed. No Costs. Consequently, connected Miscellaneous Petition is closed.

13.06.2022

Index : Yes/No
Speaking Order : Yes / No
vkr

To

- 1.The District Munsif,
Rasipuram.
- 2.The Section Officer,
VR Section, Madras High Court,
Chennai.



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R.N.MANJULA, J.,

vkr

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