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C.R.P.No.2761 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

THE HONOURABLE MRS. JUSTICE S.KANNAMMAL

C.R.P.No.2761 of 2021
and C.M.P.Nos.20136 & 20311 of 2021

1.M.Velusamy
2.N.Muthulakshmi
3.S.Sakthi Devaki
4.M.Latha
5.M.Krishnasamy
6.Arumugasamy

..Petitioners

Versus

1.Shanthi Anandaraj
2.S.Shanmugavadivu
3.P.Thilagavathi
4.M.Sumathi
5.M.Savithiri
6.S.Valli
7.M.Maheswari
8.R.Jayasree
9.A.Thilagavathi

10.The Tahsildar
Pollachi (North), Pollachi.

..Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order of the District Munsif Court, Pollachi dated 15.11.2018 made in I.A.No.933 of 2018 in I.A.No.873 of 2014 in O.S.No.291 of 2014.

For Petitioner : Mr.S.Saravanakumar

For R1 to R9 : Mr.Mukunth

For Sarvabhuvanam Associates



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ORDER

This Civil Revision Petition has been filed against the fair and decreetal order of the District Munsif Court, Pollachi dated 15.11.2018 made in I.A.No.933 of 2018 in I.A.No.873 of 2014 in O.S.No.291 of 2014.

2. The respondents 1 to 9 herein are the plaintiffs and the Civil Revision Petitioners herein are the defendants in the suit in O.S.No.291 of 2014 filed before the District Munsif Court, Pollachi, for sub-division of their respective property by means of permanent injunction and to restrain the defendants from interfering with the peaceful possession, occupation and enjoyment of the suit properties. An interlocutory application in I.A.No.873 of 2014 has been filed by the respondents 1 to 9/plaintiffs seeking to appoint an Advocate Commissioner to survey the suit property in accordance with respective sale deeds for sub-division with the assistance of Pollachi (North) Taluk Surveyor. Later, an interlocutory application in I.A.No.933 of 2018 has been filed by the respondents 1 to 9/plaintiffs seeking to provide police protection to the Advocate-Commissioner to execute the warrant of commission and to measure the suit property. By order, dated 15.11.2018, the Court below ordered the application and directed the Inspector of Taluk Police Station, to provide



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necessary protection to assist the Advocate Commissioner and Revenue Survey officials to carry out the entrusted work. Questioning the same, the Civil Revision petitioners/defendants have filed the present Revision Petition.

3. The learned counsel appearing for the petitioners submitted that in the memo filed by the Advocate Commissioner on 14.06.2018 and 05.05.2018, it is stated that the surveyor was unable to complete measurement due to the controversy between the defendants and their family members for which police protection is not necessary and it is not a valid reason for seeking police aid. Further, it is stated that the real reason behind the failure of surveyor to measure the suit property is as per the alleged sale deed relied by the respondents 1 to 9 herein, the property mentioned is not in existence. Hence, the Civil Revision Petitioners/Defendants prays to allow this petition.

4. The learned counsel for the respondents 1 to 9/ plaintiffs would submit that originally three Advocate Commissioners were appointed by the learned District Munsif on 16.02.2016, 19.08.2017 and 13.12.2017, but two of the Advocate Commissioners returned the commission warrant stating personal reasons in executing the warrant. Thereafter, third Advocate Commissioner filed a memo dated 14.06.2018 and 05.05.2018 stating the reasons that without the assistance of the police authorities the suit property cannot be



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measured. In such circumstances, the Court below, taking note of the same, ordered the application and directed the concerned police to provide police protection to enable him to carry out the entrusted work by measuring the suit property without any disturbance. Therefore, there is no error in the order passed by the Court below.

5. Taking into consideration the facts and circumstances of the case and in view of the above submissions made by the learned counsel for the respondents 1 to 9/plaintiffs, this Court does not find any infirmity in the order passed by the Court below. The Court below passed the order as early as in the year 2018, still the matter is pending at the stage of taking measurements of suit property by the Advocate Commissioner. Therefore, the Advocate-Commissioner is directed to carry out the entrusted work with the help of the police and file a report before the Court below as expeditiously as possible preferably within a period of eight weeks from the date of receipt of copy of the order.

6. With the above observation, the Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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To

The District Munsif Judge,
Pollachi.



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S.KANNAMMAL, J.,

gbi

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