



CRP(PD)(MD)No.1598 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1598 of 2022

CMP(MD)No.6899 of 2022

1. Rasammal
2. Subramani
3. Sakthivel
4. Ramasamy

... Petitioners

versus

1. Perumal
2. Jayanthi
3. Pavalayee
4. Ramayee
5. Sadayammal @ Pappayee
6. Vembayi
7. Balammal

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 03.06.2022 passed in I.A.No.2 of 2020 in O.S.No.141 of 2020 on the file of the Principal District Munsif Court, Karur.



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For Petitioners : Mr.M.P.Senthil

ORDER

This Civil Revision Petition is filed against the order dated 03.06.2022 passed in I.A.No.2 of 2020 in O.S.No.141 of 2020 on the file of the Principal District Munsif Court, Karur.

2. The petitioners are plaintiffs in O.S.No.141 of 2020. They filed the said suit for demarcation of the limits of suit property described in the schedule to the plaint by appointment of an Advocate/ Commissioner with the help of a qualified Surveyor and also for permanent injunction. Pending the suit, they also filed an interlocutory application in I.A.No.2 of 2020 under Order 26 Rule 9 C.P.C. for appointment of an Advocate Commissioner to measure the suit schedule property with the help of a Surveyor. However, the trial Court found that the relief sought for in the suit and in I.A.No.2 of 2020 are one and the same, which cannot be acceptable and whether the



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petitioners are entitled for demarcation of the suit schedule property can be ascertained only by letting in acceptable evidence during the trial and also by relying upon a Judgment of this Court in ***M.S.Jayaprakash vs. K.Kumar, dated 20th April 2017***, dismissed the said interlocutory application. Aggrieved over the same, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the petitioners submits that the petitioners ought not to have filed the said interlocutory application, when they sought for demarcation of the suit schedule property. However, he confined his relief that let there be a Commission to find out the physical features of the property, so that, it would be convenient for both parties to contest the suit.

4. In view of the fair representation made on behalf of the petitioners, this Civil Revision Petition is disposed of in the admission stage itself, by giving liberty to the petitioners to file a fresh



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interlocutory application under Order 26 Rule 9 C.P.C. before the trial

Court. On filing such application, the trial Court shall consider the same on merits and in accordance with law, as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

05.08.2022

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Index : Yes / No

Internet: Yes / No.

Note: Issue order copy on or before 11.08.2022

To

1. The Principal District Munsif Court,
Karur.



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B.PUGALENDHI, J.

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