



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2022

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THE HONOURABLE MRS.JUSTICE S. ANANTHI

CRP(MD).Nos. 1404 of 2021 and
CMP(MD).No.7904 of 2021

1.A. Raju
2.R. Rajathi .. Petitioners/Respondents/Plaintiffs
Vs.
1.P.Vijayarani
2.P.Paulsamy .. Respondents/Petitioners/Defendants

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 29.03.2021 made in I.A.No.239 of 2020 in O.S.No.67 of 2020 on the file of the District Munsif - Cum - Judicial Magistrate, Peraiyur.

For Petitioners : Mr. J. Lawrence
For R1 & R2 : Mr. S. Prabhu

ORDER

The revision petitioners / plaintiffs filed this revision to set aside the order, dated 29.03.2021 made in I.A.No.239 of 2020 in O.S.No.67 of 2020 on the file of the District Munsif - Cum - Judicial Magistrate, Peraiyur.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The said Interlocutory Application in I.A.No.239 of 2020 filed the respondents / defendants under Order 26 Rule 9 CPC to appoint an Advocate Commissioner to survey the property along with the Surveyor and file a report. The suit is for bare injunction. The schedule property is also given by the plaintiffs excluding the 30 Cents claimed by the respondents / defendants. Since the suit is for bare injunction, the appointment of Commissioner is not necessary to survey the land. Without considering the relief, the trial Court has allowed the Commission Petition.

4. If the respondents / defendants want to survey the land, they can file a separate application before the Revenue Department and get it surveyed. With regard to the present suit, the appointment of Commissioner is not necessary. Hence, this Court is inclined to set aside the order, dated 29.03.2021 made in I.A.No.239 of 2020 in O.S.No.67 of 2020 on the file of the District



Munsif - Cum - Judicial Magistrate, Peraiyur.

5. Accordingly, this Civil Revision Petition is allowed.
No costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

The the District Munsif - Cum - Judicial Magistrate, Peraiyur.

+1 CC to M/s.J. LAWRENCCE, Advocate (SR-19457[F] dated 19/04/2022)

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SB(CO)

KB(29.04.2022) 2P 3C