



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR, J

C.R.P. (MD) .No.85 of 2018

and CMP (MD) .No.357 of 2018

WEB COPY

1.Raja
2.Jawaharpandi
3.Dhanasekaran
4.Anbukalai
5.Subburaj
6.Bommudurai
7.Subburaj
8.Velchamay
9.Raja

....Petitioners/Respondents/Defendants

Vs.

Veluchamay

....Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Case is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 15.06.2016 made in I.A.No.140 of 2016 in O.S.No.461 of 2014 on the file of the District Munsif Cum Judicial Magistrate Court, Peraiyur and to dismiss the same.

For Petitioners : Mr.K.Hemakarthiskeyan

For Respondent : No appearance

O R D E R

The defendants are the revision petitioners.

2.The plaintiff has filed O.S.No.461 of 2014 before the District Munsif Cum Judicial Magistrate, Peraiyur, for mandatory injunction and recovery of possession. Pending suit, the plaintiff has filed I.A.No.140 of 2016 for appointment of Advocate Commissioner to note down the physical features of the property. The said application was allowed. Challenging the said order, the present revision has been filed by the defendants.

3.According to the revision petitioners, the learned trial Judge has simply directed the commissioner to measure the suit schedule property along with the help of surveyor without considering the sale deed of the plaintiff. This is the only ground on which the order of the trial Judge is put to attack.



4.Though summon has been served, the respondent has not engaged a counsel and there is no representation on the side of the respondent.

5. I have considered the submissions made on the side of the learned counsel for the revision petitioners.

6.Since it is a suit for mandatory injunction and recovery of possession, the appointment of Advocate Commissioner is quite natural. However, the grievance of the revision petitioners is that the appointment of Advocate Commissioner with the help of surveyor would not be suffice unless the sale deed of the plaintiff is also taken into consideration, the rights of the defendants will be affected.

7.The order of the appointment of Advocate Commissioner by the trial Court is hereby confirmed. The Advocate Commissioner is directed to take into consideration the sale deed of the plaintiff which is referred as a plaint document dated 27.12.2002 at the time of inspection.

8.With the above observation, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

msa

To

1.The District Munsif Cum Judicial Magistrate ,
Peraliyur

Copy To:

Mr.K.Jafer Ali,
Advocate Commissioner,
District Munsif Cum Judicial Magistrate ,
Peraliyur

C.R.P. (MD) .No.85 of 2018
and CMP (MD) .No.357 of 2018
08.04.2022

_RD(20.04.2022) 2P 3C