



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.03.2022

CORAM:

THE HONOURABLE MRS. JUSTICE S.ANANTHI

C.R.P (MD) .No.1824 of 2021

and

C.M.P (MD) No.9783 of 2021

1.S.Mohamed Siddique
2.S.Noor Mohamed
3.Baseer Mohamed

...Petitioners/Defendants 2 to 4

Vs.

1.M.Jamal Mohamed
2.M.Abdul Kadhar
3.K.Mohamed Mohideed
4.Mumtaj Begum

...Respondents/Plaintiffs 1 to 4

PRAYER : This Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the order of appointing Advocate Commissioner for measuring the subject property vide fair and decreetal order dated 22.04.2021 passed in I.A.No.18 of 2018 in O.S.No.74 of 2018 (hereinafter referred as ''impugned order'') on the file of the District Munsif Court, Alangudi, Pudukottai.

For Petitioners : Mr.M.Dinesh Hari Sudarsan
For Respondents : Mr.P.Ganapathy Subramanian

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 22.04.2021 passed in I.A.No.18 of 2018 in O.S.No.74 of 2018 on the file of the learned District Munsif, Alangudi, Pudukottai.

2.I.A.No.18 of 2018 was filed by the revision petitioners/plaintiffs under Order 26 Rule 9 of the Civil Procedure Code, to appoint an Advocate Commissioner, which was allowed by the learned District Munsif, Alangudi, Pudukottai. Aggrieved by the said order, the revision petitioners/defendants have filed this Civil Revision Petition.

3.The suit is for permanent injunction not to disturb the possession of the plaintiff. The plaintiff specifically has given boundaries and extent in the suit property. The revision petitioners/defendants in their written statement have not objected the measurements and boundaries as stated in the schedule property.



Therefore, for bare injunction, if there is no disputed, the Commissioner cannot be appointed.

4. In view of the above, this Civil Revision Petition is allowed and the fair and decreetal order dated 22.04.2021 made in I.A.No.18 of 2018 in O.S.No.74 of 2018 on the file of the learned District Munsif, Alangudi, Pudukottai is hereby set aside. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

To

The District Munsif,
Alangudi, Pudukottai.

C.R.P(MD).No.1824 of 2021
and
C.M.P(MD)No.9783 of 2021
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nsn(CO)

TR(11.04.2022) 2P 2C