



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) .No.1853 of 2021

and

C.M.P. (MD) .No.9936 of 2021

WEB COPY

1.Vasantha
2.Jeyalakshmi
3.Vijayalakshmi

... Petitioners/Respondents/Plaintiffs

Vs.

Adaikan

... Respondent/Petitioner/ 1st Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 01.11.2021 made in I.A.No.1 of 2019 in O.S.No.69 of 2017 on the file of the District Munsif cum Judicial Magistrate Court, Thirumayam.

For Petitioners : Mr.G.Sridharan

For Respondent : Mr.D.Senthil

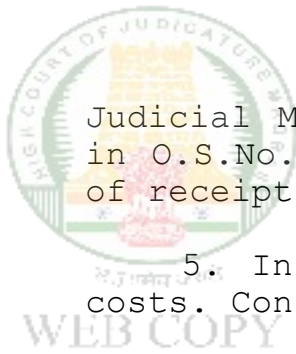
O R D E R

The revision petitioners/plaintiffs have filed this Civil Revision Petition to set aside the order dated 01.11.2021, passed by the learned District Munsif cum Judicial Magistrate, Thirumayam in I.A.No.1 of 2019 in O.S.No.69 of 2017.

2. The I.A.No.1 of 2019 was filed by the respondent/first defendant under Order 26 Rule 9 of C.P.C., seeking to appoint an Advocate Commissioner to inspect and to measure the suit property with the help of Village Administrative Officer and Surveyor.

3. The suit in O.S.No.69 of 2017 was filed for declaration and injunction. The plaintiffs claimed right through registered sale deed and oral sale. The defendants filed the written statement and they have not disputed the identity of the property in the suit schedule.

4. The only question is whether the plaintiffs are entitled for declaration decree. The plaintiffs cannot claim right through oral sale and only the trial Court has to decide the matter, on the basis of documents and evidence and the appointment of the Advocate Commissioner is not necessary in this case. Hence, the order passed by the learned District Munsif cum Judicial Magistrate, Thirumayam in I.A.No.1 of 2019, dated 01.11.2021 is set aside. Since the suit is pending from the year 2017, the learned District Munsif cum



Judicial Magistrate, Thirumayam is directed to dispose of the suit in O.S.No.69 of 2017, within a period of four months from the date of receipt of a copy of this order.

5. In the result, the Civil Revision Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The District Munsif cum Judicial Magistrate,
Thirumayam.

+1 CC to M/s.G.SRIDHARAN, Advocate (SR-8489[F] dated 24/02/2022)

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