



C.R.P. No. 467 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 467 of 2023
and
C.M.P. No. 3901 of 2023

1. Meerabai,
W/o. Vasu Devan

2. Vasudevan

... Petitioners

Vs

1. Gananamani

2. Thilak

... Respondents

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the impugned order dated 08th March 2021 passed in I.A.No. 541 of 2018 in O.S.No. 150 of 2017 on the file of Subordinate Court, Tiruttani, consequentially restrain the defendants from marking the Commissioner's report as a document to establish their case.



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For Petitioner : Mr.R.Udaya Kumar

ORDER

Challenging the impugned order dated 08.03.2021 passed by the learned Sub-Judge, Tiruttani passed in I.A.No.541 of 2018 in O.S.No. 150 of 2017 for appointment of commissioner and also restraining the defendants from marking the Commissioner's report, the Revision Petitioners/plaintiffs preferred this Civil Revision Petition.

2. The learned counsel for Revision Petitioners would submit that in the Commissioner's report, it was mentioned that the defendants, who are the persons were in adverse possession and enjoyment of the property, as such, the appointment of Commissioner in the suit claimed by the defendants is unwarranted one, thereby, they have attempted to collect evidence through the Commissioner. Hence, the appointment of advocate Commissioner is unjustifiable one. Even though the same was objected by the plaintiffs before the trial court, the trial judge, ignoring the same, passed an order for appointment of advocate commissioner.



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3. A perusal of records would clearly reveals the fact that only to collect evidence, the application for appointment of commissioner was filed. Hence, the application for appointment of Advocate Commissioner in I.A.No.541 of 2018 is liable to be dismissed. But, on perusal of the records, it would reveal that the Advocate Commissioner was appointed and these Revision Petitioners have also filed their objections, which would denote that they are having valid defence with regard to the commissioner's report. Furthermore, on perusal of Commissioner's report, before visiting the property, the Commissioner has issued notice, but the plaintiffs have not appeared before the Commissioner, however they have raised objections. If at all, the plaintiffs are having objections over the Commissioner's report, they are directed to file their objections before the trial court and liberty is also granted to the plaintiffs to file their objections for the Commissioner's report, but instead of exhausting all the remedy, they have straight away filed this Revision Petition and raised objection against the Commissioner's report. Accordingly, this Civil Revision Petition is disposed of and liberty is granted to the plaintiffs to file their objections for the Commissioner's report.



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Till then, the trial court is directed not to proceed with the proceedings in the suit and the Revision Petitioners are directed to file their objections within a period of two weeks from the date of receipt of copy of this order, since they have approached the court, the trial need not be proceeded until they have filed their objections. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
rpp

To

Sub-Judge,
Tiruttani.



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T.V.THAMILSELVI, J.

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