



C.R.P.No.1647 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R.P.No.1647 of 2023

and

C.M.P.No.10753 of 2023

1.K.Ilayaraja

2.M.Ponnusamy

. . . Petitioners

Versus

Natarajan (Died)

1.Vasantha

2.Pandiyan

3.Angel

4.Dhandapani

5.Shakila

. . . Respondents

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 21.02.2023 passed in I.A.No.455 of 2022 in O.S.No.43 of 2015 by the District Munsif, Arakkonam.

For Petitioners : Mr.S.Vijayanand

ORDER

Heard Mr.S.Vijayanand, learned counsel for the petitioners and perused the records.



C.R.P.No.1647 of 2023

2. This revision petition is filed questioning the order passed in I.A.No.455 of 2022 in O.S.No.43 of 2015 on the file of the District Munsif Court, Arakkonam. wherein the request of the petitioners for appointment of Advocate Commissioner was declined.

3. The petitioners are the defendants 1 and 2 in the suit filed by the respondents 1 to 3 herein/plaintiff seeking declaration of title and for removal of encroachments.

4. Learned counsel for the petitioners submitted that though the plaintiffs have clearly mentioned the boundaries and measurements in respect of suit schedule property, in which, the plaintiffs are seeking declaration, so far as the alleged encroachment is concerned, the plaintiffs have not mentioned the specific extent including the boundaries which are allegedly in the possession of the defendants.

5. It is to be noted that the plaintiffs are expected to prove their case by specifically mentioning the extent of encroachment by the defendants, thereby, they can seek for removal of the encroachment, specifically within four corners of the schedule. However, as rightly pointed out by the learned counsel for the



C.R.P.No.1647 of 2023

petitioners, the extent of encroachment sought to be removed is missing in the suit. The petitioners being the defendants 1 and 2 are trying to gather the evidence which ultimately goes in favour of the plaintiffs. The trial Court has rightly considered and declined to appoint an Advocate Commissioner as sought for.

6. Considering the circumstances, this petition does not deserve any merit and therefore, there is no need to interfere with the impugned order passed by the trial Court. Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.06.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ms

To
The District Munsif,
Arakkonam.



WEB COPY



C.R.P.No.1647 of 2023

DR.D.NAGARJUN, J.,

ms

C.R.P.No.1647 of 2023

and

C.M.P.No.10753 of 2023

13.06.2023