



C.R.P..Nos.4013 &4024 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.4013 & 4024 of 2023

and

CMP.No.24563 & 24621 of 2023

1.Palani
2.Thukkan
3.Maari
4.Naasi
5.Seami
6.Malarkodi

... Petitioners in both C.R.P's

Versus

Sambasivam

...Respondent in C.R.P.No.4013 of 2023

Vadivel

...Respondent in C.R.P.No.4024 of 2023

PRAYER in C.R.P.No.4013 of 2023: Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order and decreetal order dated 17.03.2023 in I.A.No.3 of 2021 in O.S.No.197 of 2021 on the file of the learned Principal District Munsif, Tirupattur.



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PRAYER in C.R.P.No.4024 of 2023: Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order and decreetal order dated 17.03.2023 in I.A.No.3 of 2021 in O.S.No.195 of 2021 on the file of the learned Principal District Munsif, Tirupattur.

For Petitioner in both C.R.P's : Mr.Prakash Adiapadam

For respondent in both C.R.Ps : Mr.G.K.Sekar

COMMON ORDER

These Civil Revision Petitions are filed challenging the orders passed by the Court below dated 17.03.2023 in I.A.No.3 of 2021 in O.S.No.197 of 2021 and I.A.No.3 of 2021 in O.S.No.195 of 2021 on the file of the learned Principal District Munsif, Tirupattur, appointing an Advocate Commissioner to measure the suit property, note down the physical features and file a report.

2. The learned counsel for the revision petitioners/defendants submits that the respondent/plaintiff in CRP.No.4013 of 2023 filed an application in I.A.No.3 of 2021 in O.S.No.197 of 2021 and the respondent/ plaintiff in CRP.No.4024 of 2023 filed I.A.No.3 of 2021 in O.S.No.195 of 2021 on the



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file of learned Principal District Munsiff, Tirupattur to appoint an Advocate Commissioner to note down the physical features of the suit property and the same was allowed by the Trial Court. Aggrieved by the same, the revision petitioners are before this Court by way of Civil Revision Petitions.

3. Before the Trial Court, the respondent/plaintiff herein filed a suit in O.S.No.197 of 2021 and O.S.No.195 of 2021 seeking the relief of declaration of title and permanent injunction in respect of the suit property. The defendants have also appeared and submitted written statement denying the plaintiffs title over the suit property. After filing of the written statement, issues were framed and the suits were posted for trial. At that stage, the respondent/plaintiff herein filed an application in I.A.No.3 of 2021 in O.S.No.197 of 2021 and I.A.No.3 of 2021 in O.S.No.195 of 2021 to appoint an Advocate Commissioner to note down the physical features and to measure the suit property and file a report. In the written statement, the revision petitioners/defendants strongly resisted the claims made by the respondent/plaintiff herein on the ground that in order to collect the evidence the respondent herein/plaintiff have filed such an interlocutory applications as they have no document of title to prove their right over the suit property.



Further, the defendants raised objection stating that through unregistered documents, the respondent herein/plaintiff are claiming right over the suit property, which is not legally permissible.

4. Considering both the submissions, the Trial Court allowed the applications and appointed an Advocate Commissioner to measure the property and note down the physical features in and around the suit property and file a report.

5. The learned counsel for the revision petitioner submits that the Trial Court has observed in its order that as the respondent/plaintiff have no document to prove their possession and in order to collect evidence, the Advocate Commissioner was appointed, which is not permissible under law. Though the Trial Court has made such an observation, the Advocate commissioner was appointed only to measure the property and note down the physical features as per the order passed by the Trial Court. It is settled position that Advocate Commissioner is not to be appointed to prove the possession of the property.



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6. In view of the above facts, this Court is of the view that the Advocate Commissioner appointed to measure the property and note down the physical features, as his report is necessary to adjudicate the dispute between the parties. Therefore, this Court does not find any reason to interfere with the order passed by the Trial Court.

7. Accordingly, the civil revision petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

31.10.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
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T.V.THAMILSELVI, J.

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To

1. The Principal District Munsif Court,Tirupattur.
- 2.The Section Officer,
VR-Section, High Court of Madras.

C.R.P.No.4013 & 4024 of 2023
and
CMP.No.24563 & 24621 of 2023

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