



CRP.No. 3410 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

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and

C.M.P.No.21160 of 2023

1. Marappa Gounder

2. Sivaraj

.. Petitioner

Versus

1. Alagappa Gounder

2. Balasubramaniam

3. Sundaramurthy

.. Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 19.06.2023 passed in I.A.No.4 of 2023 in O.S.No.980 of 2017 on the file of District Munsif Judge at Sulur and pass orders.



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For Petitioner : Mr.K. Myilsamy

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 19.06.2023 passed in I.A.No.4 of 2023 in O.S.No.980 of 2017 on the file of District Munsif Judge at Sular.

2.The case of the petitioners is that the respondents herein has filed a petition under Order 26 Rule 9 and Section 151 of CPC in I.A.No.4 of 2023 to appoint an Advocate Commissioner to visit the suit property and note down the physical features of the suit property and the same was allowed vide order dated 19.06.2023. Aggrieved over the same the petitioners have come up with this petition.

3.The learned counsel for the petitioners contend that appointment of Advocate commissioner is absolutely unnecessary in the instant case. He further submits that an Advocate Commissioner cannot be appointed



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in a suit which was filed for declaration and injunction. Hence he prays this Court to allow this petition by setting aside the order passed by the Court below.

4. The suit is filed by the petitioners herein seeking to declare that the plaintiffs are the absolute owner of the suit property and further sought permanent injunction restraining the defendants, their men and agent and anybody claiming through them from in any way interfering with the plaintiff's peaceful possession of the suit property. Pending suit the respondents herein filed the I.A wherein the impugned order was passed.

5. On going the impugned order, it is seen that an Advocate Commissioner has been appointed to visit the suit property and to note down the physical features of the suit property and more particularly the existence of stone fence on the southern boundary of the suit property, ridge demarcating the petitioner and the respondent property on the north beyond the stone wall and also the location of residential house of the respondents/plaintiffs in the suit property which does not warrant



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interference by this Court.

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6. This Court is of the view that the learned Judge has not passed any adverse order against the petitioners and he has appointed an Advocate commissioner to note down the physical features, whileso, what prevented the Petitioners herein to co-ordinate with the Advocate Commissioner is not known.

7. In view of the foregoing reasons, the prayer sought for by the Revision petitioner cannot be granted by this Court and this Civil Revision petition deserves to be dismissed. Accordingly this Civil Revision petition is dismissed. No costs. Consequently the connected miscellaneous petition is closed.

19.09.2023

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
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To

1. The District Munsif Judge at Sulur.
2. The Section Officer, V.R.Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

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