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CRP.No.1099 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.1099 of 2017 and
CMP.No.5315 of 2017

1.Suseela

2.Gowri Manohari

... petitioners

Vs.

R.Devarasu

... Respondent

PRAYER:

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order of the Principal District Munsif Court at Bhavani dated 23.12.2016 in IA.No.1904 of 2016 in OS.No.246 of 2014.

For Petitioners : Mr.Deeraj
for Mr.S.M.S.Shriram Narayanan

For Respondent : No appearance

ORDER

This civil revision petition has been filed to set aside the fair and decretal order of the Principal District Munsif Court at Bhavani dated 23.12.2016 in IA.No.1904 of 2016 in OS.No.246 of 2014, thereby dismissed the petition seeking appointment of advocate commissioner.



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2. Heard, the learned counsel for the petitioners. Though notice was served, no one appeared on behalf of the respondent before this Court in person or through pleader.

3. The petitioners are the plaintiffs and the respondent is the defendant. The petitioners filed suit for permanent injunction and mandatory injunction in respect of the suit schedule property. While pending the suit, the petitioners already filed application seeking appointment of advocate commissioner in IA.No.918 of 2014, in which an advocate commissioner was appointed in order to note down the physical features of the suit property. Accordingly, he visited the suit property. He noted down the physical features of the suit property and filed his report along with the plan as early as on 02.09.2016. Thereafter, again the petitioners filed application seeking appointment of advocate commissioner in order to measure the suit property with the help of a surveyor on 01.12.2016. That apart, the petitioners did not even raise any objection to the advocate commissioner's report. Therefore, it is nothing but collection of evidence in the suit filed for permanent injunction and mandatory injunction and the court below rightly dismissed the petition. As such, this Court finds no infirmity or illegality in the order passed by the court below.



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4. Accordingly, this civil revision petition is dismissed. However, the petitioners are at liberty to raise objection on the advocate commissioner's report in the manner known to law. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

03.02.2023

Speaking/non-speaking

Index : Yes/No

Internet : Yes

lok

G.K.ILANTHIRAIYAN, J.



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To

The Principal District Munsif Court at Bhavani

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