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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.3633 of 2023
and
C.M.P.No.22766 of 2023

1. N.Gopinath

2. P.Ananth

... Petitioners

Versus

1.A.Sivasakthi

2.P.Arumugam

3.The District Collector,
Kallakurichi District,
Kallakurichi.

4. The District Registrar,
Kallakurichi District,
Kallakurichi.

5. The Sub Registrar,
Chinna Salem & Taluk,
Kallakurichi District.

6. The Sub Registrar,
Chinna Salem & Taluk,
Kallakurichi District.

7. The Taluk Head Surveyor,
Chinna Salem Taluk,
Kallakurichi District.

...Respondents



PRAYER: Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the fair and decreetal orders dated 08.09.2023 passed in I.A.No.859 of 2022 in O.S.No.737 of 2022 by the Principal Subordinate Court, Kallakurichi.

For Petitioner : Mr.S.B.Viswanathan

ORDER

The present civil revision petition has been filed challenging the order passed in I.A.No.859 of 2022 on the file of the Principal Subordinate Court, Kallakurichi, in and by which the plea of respondents 1 and 2 herein for appointment of Advocate Commissioner to visit the suit property and file a report and plan with regard to the physical features of the property has been allowed. The said order is assailed by filing the present revision petition.

2. The main grievance expressed by the learned counsel for the revision petitioner is that though the revision petitioners, who were defendants in the said suit, vehemently objected to the appointment by filing detailed counter, however, when the order had come to be passed on 08.09.2022, inspite of the fact that there was a boycott and the learned counsel for the revision petitioners had not attended the court, yet the court, recording that the learned counsel for the revision petitioners had been heard, had passed the aforesaid order, which would be evident from the notings in



the docket sheet. Therefore, it is submitted that there is violation of principles of natural justice and, therefore, the matter has to be remanded back to the court to pass orders in accordance with law after granting an opportunity of hearing to the revision petitioners to put forth their case.

3. Learned counsel for the respondents, fairly submitted that in view of the claim of the revision petitioners as regards violation of principles of natural justice, this Court may remand the matter back to the court below to pass appropriate orders after affording an opportunity of hearing to either side.

4. In view of the fair stand taken by the learned counsel appearing on either side, this Court, without going into the merits of the contentions, sets aside the order impugned herein and remands the matter to the Principal Subordinate Judge, Kallakurichi who shall take up the case afresh and after affording an opportunity of hearing to either side, pass appropriate orders in accordance with law as expeditiously as possible.



5. The civil revision petition is disposed of with the aforesaid observation and directions. No costs. Consequently, connected miscellaneous petition is closed.

06.10.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
kmm

To

- 1.The Principal Subordinate Judge,
Kallakurichi.
- 2.The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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