



C.R.P.No.4205 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2023

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4205 of 2022

and

C.M.P.No.22013 of 2022

1.Mahendran
2.Jothi
3.Sekar
4.Peruma
5.Narayanasami
6.Gandhiammal
7.Thulasingham
8.Mallika
9.Venkatachalam
10.Sangeetha

... Petitioners

Vs.

Senthamilselvi

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order of the District Munsif Court at Dharmapuri, dated 23.08.2022 in I.A.No.438 of 2021 in O.S.No.127 of 2016.



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For Petitioner : Mr.T.Deeraj for
M/s.P.V.Law Associates

ORDER

The Civil Revision Petition has been filed challenging the fair and decretal order dated 23.08.2022 in I.A.No.438 of 2021 in O.S.No.127 of 2016. The revision petitioners are the respondents and the respondent instituted the suit for declaration and permanent injunction.

2. The revision petitioners/defendants have already filed a written statement in the suit, more so, they filed an Interlocutory Application in I.A.No.438 of 2021, for the appointment of the Advocate Commissioner to measure the suit schedule property. The Trial Court considered the application and found that there is no reason to appoint an Advocate Commissioner to measure the suit and the parties are bound to establish their case through documents and evidence.

3. This Court is of the considered opinion that for the purpose of collection of evidence, Advocate Commissioner cannot be appointed at the instance of either of the parties to the suit. If at all, any doubt arises in the



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mind of the Court or certain aspects are to be clarified for arriving at a final decision, the Court has to consider the appointment of an Advocate Commissioner and not otherwise. The practice of filing an application for appointment of Advocate Commissioner for collection of evidence at no circumstances be encouraged by the Trial Courts. The parties approaching the Court are bound to establish their case through documents and evidence and they cannot utilise the Court as a tool for collection of evidence and thus, the findings made by the Trial Court in the order impugned is in consonance with the established principles and there is no infirmity as such.

4. Accordingly, the Civil Revision Petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

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03.01.2023

Index: Yes
Internet: Yes
Speaking Order



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S.M.SUBRAMANIAM.J.,

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To

1. District Munsif Court, Dharmapuri.

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