



WEB COPY



CRP No.4457 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4457 of 2023

and

C.M.P. No. 26917 of 2023

1. Narayanan
2. Kasinathan
3. Boopathy
4. Iyyappan

... Petitioners

Versus

Balakrishnan

...Respondent

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the order and decretal order made in I.A.No. 399 of 2022 in O.S.No.194 of 2017 dated 23.08.2023 on the file of District Munsif, Panruti.

For Petitioner : Mr. V. Balamurugane

ORDER

The petitioner has filed this revision petition to set aside the fair and decretal order made in I.A.No. 399 of 2022 in O.S.No.194 of 2017 dated 23.08.2023 on the file of District Munsif, Panruti.



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2. Heard, Mr. V. Balamurugane, learned counsel for the petitioners and perused the materials available on record.

3. Before the trial court the plaintiffs have filed an I.A.No.399 of 2022 in O.S.No.No.194 of 2017 under Order XXVI Rule 9 to appoint an Advocate Commissioner to note down the physical features and measure the suit property with the help of Surveyor and the same was objected by the plaintiff. On hearing both sides the learned trial Judge holding that the main reason stated by the defendants for appointment of Advocate Commissioner is that there are in possession of the property and the plaintiff is attempted to cause interference, to collect the evidence to show that they are in possession of the property, and they want to appoint an Advocate Commissioner, for which to appointment of Advocate Commissioner as such is not permissible, accordingly, it was dismissed. Aggrieved the same the revision petitioners have filed this revision.

4. The learned counsel for the revision petitioners submitted that the property value is not assessed by the plaintiff and Court fee paid by him also is not correct and therefore, they want to prove the value of the property. Hence, they prayed to appoint an Advocate Commissioner. But admittedly, the report



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of the Commissioner cannot be used as collection of evidence in respect of the possession of the property. The learned trial Judge rightly concluded the proceedings, which needs no interference by this Court.

5. Liberty is granted to the respondent / defendant to file an application before the trial Court if at all the property is under-valued and to raise the issues in respect of Court fee.

6. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

13.12.2023

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

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



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T.V.THAMILSELVI, J.

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