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C.R.P.No.138 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.138 of 2023

1.Mr.Panneerselvam
2.Mr.Chandiran (@) mores chandran
3.Mr.Madhi (@) Madhiazhaghan ... Petitioners

Vs.

Mr.Ramakrishnan ... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 09.04.2018 made in I.A.No.282 of 2017 in O.S.No.114 of 2016 on the file of the Principal District Munsif Court, Vandavasi.

For Petitioners : Mr.V.Prabhu

ORDER

The Civil Revision Petition has been filed to set aside the order dated 09.04.2018 made in I.A.No.282 of 2017 in O.S.No.114 of 2016 on the file of the Principal District Munsif Court, Vandavasi.



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2. The revision petitioners are the plaintiff, instituted a Suit in O.S.No.114 of 2016 on the file of the Principal District Munsif Court, Vandavasi for permanent injunction.

3. During the pendency of the Suit, the revision petitioners filed an Interlocutory Application in I.A.No.282 of 2017 to appoint an Advocate Commissioner to inspect the suit scheduled property and the adjacent properties and submit a report.

4. The trial Court adjudicated the issues and made a finding that the suit is instituted for permanent injunction and in the petition, the revision petitioners have stated that the defendant has encroached the property belongs to the revision petitioners by three feet and that is to be established in the suit. However, the revision petitioners/plaintiffs have not filed any document to establish the said ground. That apart, the suit itself was instituted for permanent injunction and therefore, the revision petitioners/plaintiffs have to establish their case through documents and evidences. In the absence of any documents, the Court will not be in a position to form an opinion, whether appointment of an Advocate Commissioner to measure the property is required or not. The Advocate



Commissioner cannot be appointed to collect further evidence for the purpose of establishing the case by the plaintiffs. The revision petitioners/plaintiffs have to establish their case independently through documents and evidences. Court cannot aid any parties to collect evidence for the purpose of establishing any of the issues raised in the suit.

5. Thus, in the present case, the trial Court has rightly arrived a conclusion that the petition to appoint an Advocate Commissioner is not entertainable and more so, the revision petitioners/plaintiffs have not filed any document to substantiate the ground raised in the Interlocutory Application.

6. Accordingly, the Civil Revision Petition is devoid of merits and stands dismissed. No costs.

24.01.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

To

The Principal District Munsif Court,
Vandavasi.



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S.M.SUBRAMANIAM, J.

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