



C.R.P.No.4794 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.12.2023

CORAM :

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.4794 of 2023
and C.M.P.No.28460 of 2023

1.Arjunan
2.Madan
3.Mathammal
4.Easwari

... Petitioners/Plaintiffs

-VS-

1.Dhanalakshmi
M.Murugan (Died)
2.Thangam
3.Soundhar

... Respondents/Defendants 1, 7 & 8

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal orders dated 07.10.2023 passed in I.A.No.7 of 2021 in O.S.No.308 of 2019 on the file of the Sub Court, Mettur.

For Petitioners : Mr.P.Mani



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ORDER

Challenging the impugned order dated 07.10.2023 passed in I.A.No.7 of 2021 in O.S.No.308 of 2019 on the file of the Sub Court, Mettur, the plaintiffs preferred the present revision.

2. Originally a suit in O.S.No.308 of 2019 has been filed for separate possession and for permanent injunction against the defendants. Pending the suit, I.A.No.7 of 2021 has been filed by the plaintiffs/petitioners to appoint an Advocate Commissioner to note down the physical features of the suit properties, particularly the existence of the tombs of the petitioner's parents in the suit properties on the particular facts and circumstances of the case. However, the trial court dismissed the said application stating that the appointment of Advocate Commissioner is not necessary on the ground that the said suit is one for partition and separate possession of the suit properties and as such there is no need for appointment of an advocate Commissioner to note down the physical features. Aggrieved over the said order, the petitioners/plaintiffs preferred the present revision.



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3. Learned counsel for the petitioners submit that appointment of Advocate Commissioner is necessary to note down the physical features of the suit schedule mentioned properties and to decide the dispute between the parties completely and effectively.

4. Heard the submission made by the learned counsel for the petitioners and perused the materials available on record.

5. Considering the facts and circumstances of the case, this court is of the view that the appointment of Advocate Commissioner would not cause any prejudice to the parties. Accordingly, the findings of the trial court is set aside and I.A.No.7 of 2021 is allowed and the trial court is directed to appoint an Advocate Commissioner within a period of two weeks from the date of receipt of a copy of this Order and the dispose of the suit O.S.No.308 of 2019 as early as possible.

6. With the above direction, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.12.2023



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Index: Yes/No

Speaking order : Yes/No

Neutral Citation: Yes/No

To

The Sub Court, Mettur.



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T.V.THAMILSELVI, J.,

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