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C.R.P.No.4912 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

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

C.R.P.No.4912 of 2023 &
C.M.P.No.28941 of 2023

1.Kuppusamy
2.Arasakumar

... Petitioners

Vs.

1.Kuppusamy
2.Palanisamy
3.Karuppusamy

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 30.11.2023 made in I.A.No.04 of 2023 in O.S.No.293 of 2006 on the file of the learned District Munsif Court, Dharapuram.

For Petitioners : Mr.N.Ponraj

ORDER

Challenging the order dated 30.11.2023 passed in I.A.No.4 of 2023 in O.S.No.293 of 2006, the present revision has been filed by the petitioners/plaintiffs.



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Raising the ground of fraud with respect to the sale deed, the plaintiffs have filed I.A.No.4 of 2023 for appointment of Advocate Commissioner in order to measure the suit properties with the assistance of surveyor. However, the said I.A. was resisted by the respondents on the ground that the subsequent suit filed by the petitioners for cancellation of sale deed was dismissed and the appeal filed there upon was also dismissed. Therefore, this I.A. is not maintainable.

3. The trial court dismissed the application on the ground that no where it is mentioned as encroachment or the plaintiffs have raised an apprehension that the physical features of the property will be altered by the defendants. Aggrieved by the same, the present civil revision petition has been filed by the plaintiffs.

4. This Court after having carefully gone through the averments stated in the civil revision petition and submissions made by the learned counsel for the petitioners, is of the view that no prejudice would be caused to the



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respondents, if an Advocate Commissioner is appointed to measure the suit properties as it will decide the exact boundaries of the suit properties which will help in disposal of the original suit. Accordingly, the findings of the trial court is set aside and I.A.No.4 of 2023 in O.S.No.293 of 2006 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.

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

21.12.2023

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Index : Yes/No

Speaking order/Non-speaking order

Neutral Citations : Yes/No



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To

1.The District Munsif Court, Dharapuram.



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T.V.THAMILSELVI,J.

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