



C.R.P.No.4909 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.4909 of 2023 &
C.M.P.No.28931 of 2023

1.Dr.K.Ramani
2.K.Rohini
3.N.Jeyachandran ... Petitioners

Vs.

G.S.Anandraj ... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 03.11.2023 in I.A.No.4 of 2022 in O.S.No.2733 of 2016 on the file of the I Assistant Judge, City Civil Court, Chennai.

For Petitioners : Mr.C.P.Sivamohan

ORDER

Challenging the order dated 03.11.2023 passed in I.A.No.4 of 2022 in O.S.No.2733 of 2016, the present revision has been filed by the petitioners/plaintiffs.

2. The petitioners are the plaintiffs before the trial court in O.S.No.2733 of 2016. I.A.No.4 of 2022 was filed under Order 26 Rule 9 by the plaintiffs for appointment of Advocate Commissioner to inspect the item



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No.1 of the suit property. The original suit was filed for permanent injunction against the respondent. Since there was a dispute with regard to the identification of the property, in order to identify and locate the property, the plaintiffs filed I.A.No.4 of 2022 to appoint an Advocate Commissioner to inspect the schedule mentioned property along with the surveyor and to file his report. The respondent contested the said I.A on the ground that the suit is right for arguments and at that stage, the plaintiffs have come forward with an application to recall PW1 and the same was dismissed by the trial court. Aggrieved by the same, the plaintiffs filed a civil revision petition before this court and the same was also dismissed. Hence, an application for appointment of Advocate Commissioner should not be allowed. The trial court after hearing both sides, had come to a conclusion that on the side of the plaintiffs/petitioners, witnesses were examined and the documents were marked and on the side of the defendant/respondent also, witnesses were examined and documents were marked. The case was posted for arguments and hence, in order to protract the proceedings, the plaintiffs have come forward with an application to appoint an Advocate Commissioner to identify and locate the property. The trial court relying upon Ex.B16 and found that the property was also identified and measured and surveyed by a



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qualified surveyor. Therefore, dismissed the I.A.No.4 of 2022. Aggrieved by the same, the present revision has been filed.

3. This Court has gone through the submissions made by the learned counsel for the petitioner and gone through the materials available on record.

4. On going through the materials placed on record, this court is unable to find any reason for the trial court to reject I.A.No.4 of 2023 to appoint an Advocate Commissioner as it would not cause any prejudice to the respondent. Since the identification of the suit property and fixing the boundaries with the help of surveyor would in fact help the trial court to come to the conclusion with respect to the original suit filed for injunction. Therefore, the findings of the trial court is set aside and the I.A.No.4 of 2023 is allowed and the trial court is directed to appoint an Advocate Commissioner.

5. 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

To

1.The I Assistant Judge, City Civil Court, Chennai.



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T.V.THAMILSELVI,J.

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