



C.R.P.(MD)No.2468 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(PD)(MD)No.2468 of 2023

and

C.M.P(MD)No.12880 of 2023

1.Samikannu

2.R.Marimuthu

3.R.Srinivasan

4.A.Dhanalakshmi

: Petitioners/Petitioners/
Defendants

Vs.

1.Thangaraj

G.Moorthy (died)

K.Rajalakshmi (died)

2.K.Amuthavalli

3.B.Kamatchi Ammal

4.B.Sankar

5.B.Saravanan



C.R.P.(MD)No.2468 of 2023

WEB COPY

6.B.Prabhavathy

7.S.Seethalakshmi

8.S.Nithya

9.S.Divya

10.Selvam

11.G.Thirunavukarasu

12.G.Sudhakar

13.G.Revathi

14.K.Malarkodi

15.K.Suresh

16.K.Sathishkumar

: Respondents/Respondents
Plaintiffs

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order dated 20.07.2023 passed in I.A.No.11 of 2023 in O.S.No. 171 of 2013 on the file of the IV Additional Sub Court, Tiruchirappalli and set aside the same.

For Petitioner : Mr.R.Sundar Srinivasan

For Caveator : Mr.T.Pratheep, for R1.



C.R.P.(MD)No.2468 of 2023

ORDER

WEB COPY

The Civil Revision Petition is directed against the order passed in I.A.No.11 of 2023 in O.S.No.171 of 2013 on the file of the IV Additional Sub Court, Tiruchirappalli, dismissing the Commission application.

2. The respondents have filed a suit in O.S.No.171 of 2023 to declare that they are absolute owners of the suit property and the alleged partition deed, dated 17.08.2011 is null and void with regard to the suit property and for consequential injunction restraining the defendants and their men from interfering with the plaintiffs peaceful possession and enjoyment of the property.

3. The revision petitioner has filed the written statement claiming title over the suit property through the unregistered sale deed and it is their specific defence that in the suit property, the defendants are having residential home and remaining 27 ½ cents of suit property is also fenced by the defendants along other portions of the house and that on the south, adjoining the BHEL road, there is a compound wall of the defendants from the west towards the east, covering 27 ½ cents.



C.R.P.(MD)No.2468 of 2023

WEB COPY

4. Pending suit, the defendants have filed an application for appointment of Commissioner alleging that the plaintiffs are claiming that the suit property is the vacant site, whereas the defendants are claiming that they have put up construction in the compound wall and bore well and that the suit property has been fenced along with their other properties with a compound wall.

5. As rightly contended by the learned counsel for the respondents, the above averments of the defendants would go to show that they are attempting to prove their alleged possession over the suit property.

6. It is settled law that no Commission can be appointed to show the possession of the property. The learned trial Judge, considering the objections raised by the defendants and also the legal position, has rightly dismissed the petition. The decisions cited by the learned counsel for the petitioners are with respect to the physical features and for locating the property and not with respect to showing possession directly or indirectly. Hence, this Court concludes that the Civil Revision is devoid of merits and



C.R.P.(MD)No.2468 of 2023

the same is liable to be dismissed.

WEB COPY

7. Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

09.10.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

- 1.The IV Additional Sub Court,
Tiruchirappalli.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.2468 of 2023

K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(PD)(MD)No.2468 of 2023
and
C.M.P(MD)No.12880 of 2023

Dated : 09.10.2023