

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.35 of 2023

and

C.M.P.(MD)No.213 of 2023

1.R.Ananthatchumi

2.R.Ragupathi

.. Petitioners

Versus

1.P.Selva Pandiyan

2.S.Indhira

.. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 21.09.2022, passed in I.A.No.1 of 2022 in O.S.No.129 of 2017, on the file of the Additional District Munsif Court, Valliyoor.

For Petitioners : Mr.L.Jeen Felix

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 21.09.2022, passed in I.A.No.1 of 2022 in O.S.No.129 of 2017, on the file of the Additional District Munsif Court, Valliyoor.

2. The petitioners have filed O.S.No.129 of 2017 for a permanent injunction to restrain the respondents/defendants from interfering with the peaceful possession of the suit schedule property. In the said suit, the petitioners have also filed I.A.No.1 of

2022 for appointing an Advocate Commissioner. The trial Court, vide its impugned fair and decreetal order, dated 21.09.2022, has rejected the application filed by the petitioners. The relevant portion of the said impugned order reads as under:-

"4. The petitioners has (sic have) filed the suit on 01.08.2017 for relief of permanent injunction, restraining the respondents not to evict them under due process of law. After that, now the commissioner application has been filed on 07.07.2022. The petitioners state that they had modified furnace and other equipments in the brick-kiln by spending huge money and also implanted new machines in the suit property. So, he seeks to appoint advocate commissioner to inspect the petition mentioned property to note down the new machines implanted, which clearly shows the petitioners has (sic have) filed this application for collection of evidence. Citations submitted by the respondents squarely applicable to this case. The petitioners can prove his (sic their) case in his (sic their) evidence, if any machines are implanted during trial. The petition lacks bona fide. Therefore, this petition deserves to be dismissed."

3. In my considered view, the order of the trial Court rejecting the application filed by the petitioners for appointment of an Advocate Commissioner does not warrant any interference, as it is always open for the petitioners to let in oral and documentary evidence to substantiate that they are in possession of the property and have made so-called improvements, by letting in evidence. Therefore, the present

Civil Revision Petition is liable to be dismissed. Accordingly, it is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
smn2

30.03.2023

To

The Additional District Munsif,
Valliyoar.

C.R.P.(MD)No.35 of 2023

C.SARAVANAN, J.

smn2

Order made in
C.R.P.(MD)No.35 of 2023

30.03.2023