



CRP.(MD)No.2880 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CRP.(MD)No.2880 of 2023

and

C.M.P.(MD)No.14999 of 2023

1.Palaniammal

2.Ramasamy

... Petitioners

Vs.

Ponnappa Gounder (Died)

1.Periyasamy

2.Kanagaraj

3.Chinnappa Gounder

4.Palanisamy

5.Periyasamy

... Respondents

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair & Decretal order passed in I.A.No.86 of 2019 in O.S.No.214 of 2019 order dated 14.07.2023 on the file of the learned District Munsif cum Judicial Magistrate Court, Aravakurichi and allow the civil revision petition.

For Petitioners

: Mr.N.Marimuthu



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ORDER

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This civil revision petition is directed as against the order passed in I.A.No.86 of 2019 in O.S.No.214 of 2019 dated 14.07.2023 appointing Advocate Commissioner.

2.The learned counsel appearing for the petitioners would submit that the plaintiffs have filed the suit for bare injunction restraining the defendants from interfering in any manner with the plaintiffs' common right over the B schedule property either by destroying or obliterating the B schedule open irrigation cavar, that during the pendency of the suit, the defendants have filed Commission application alleging that the plaintiffs have already reduced the width of the path way from 10 feet to 6 feet and by suppressing the same, the above suit came to be filed and that the learned trial Judge, without considering the objection raised by the petitioners, appointed Advocate Commissioner directing him to measure the property in the presence of both parties and to verify the revenue records along with the help of the Surveyor.

3.Considering the above facts and circumstances and also the objections raised by the learned counsel appearing for the petitioners, the



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impugned order appointing Advocate Commissioner cannot be found fault with and this Court is of the view that this civil revision petition is devoid of merits and deserves dismissal.

4.At this juncture, the learned counsel appearing for the petitioners would submit that since the plaintiffs are senior citizens, the trial Court may be directed to dispose of the suit, within a time frame.

5.Considering the fact that the suit is pending from the year 2019 and the plaintiffs are senior citizens, the learned District Munsif cum Judicial Magistrate Court, Aravakurichi is directed to proceed with the suit in O.S.No.214 of 2019 and dispose the same, within three months from the date of receipt of the Commissioner's report.

6.In the result, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2023

NCC :yes/No
Index :yes/No
Internet :yes/No
gns



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K.MURALI SHANKAR,J.

gns

To

The District Munsif cum Judicial Magistrate Court,

Aravakurichi.

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