



CRP No.696 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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1.R.Rajkumar

2.R.Kannan

... Petitioners

Vs.

1.P.Paramasivam

2.R.Ravi

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 11.12.2023 in I.A.No.1 of 2023 in OS No.194 of 2022 on the file of the Additional District Munsif Court, Tiruchengode.

For Petitioners

: Mr.N.S.Sucanthan
for M/s.NSS Advocacy LPP

ORDER

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The Civil Revision Petition is filed against the fair and decreetal order dated 11.12.2023 in I.A.No.1 of 2023 in OS No.194 of 2022 on the file of the Additional District Munsif Court, Tiruchengode.

2. The petitioners are plaintiffs and respondents are respondents 1 and 3 in OS.No.194 of 2022 on the file of the Additional District Munsif Court, Tiruchengode. The petitioners/plaintiffs have filed the suit for declaration, mandatory injunction and permanent injunction. Pending suit, the respondents 1 and 3 have filed an application in IA No.1 of 2023 for appointing an advocate commissioner to note down the ABCDE disputed area and the extent of pathway as claimed by the petitioners/plaintiffs. The learned judge, by order dated 11.12.2023, had allowed the application. Challenging the said order, the petitioners have filed the present civil revision petition.

3. Learned counsel for the petitioners submits that the petitioners



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themselves have admitted the alternation of the pathway. Under such circumstances, the commissioner need not be appointed. Hence seeking to allow the Revision.

4. On a perusal of the plaint, it is noticed that the plaintiffs sought for declaration of the right of easement to use and enjoy the 15 feet width suit cart track which is shown the rough plan appended with the plaint marking ABCDE in red colour to reach their land in S.No.230/1B from north south panchayat road in S.No.225 of Vattur village, besides sought the relief of mandatory injunction to remove the vegetation in all along the 15 feet width suit cart track which was marked as ABCDE in the rough plan appended with plaint and also for permanent injunction.

5. Under these circumstances, to note down the alleged 15 feet cart track, it is necessary for the court to appoint a commissioner to adjudicate the claim of the plaintiffs. Therefore, the trial court rightly appointed the advocate commissioner to note down the physical features of the alleged 15



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feet cart track shown in the rough land appended with the plaint. I find no infirmity in the order passed by the trial court. There is no reason to interfere with the impugned order. There is no merit in the civil revision petition. Hence, the civil revision petition is Dismissed. There shall be no order as to costs. Consequently, CMP No.3538 of 2024 is closed.

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Index: Yes/No
Internet: Yes/No
mrn

To

The Additional District Munsif Court, Tiruchengode



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V.SIVAGNANAM, J.

(mrn)

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