



C.R..P.No.699 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

C.R.P.No.699 of 2023

and C.M.P.No.5496 of 2023

1. Ayyammal
 2. Premelatha
 3. Pavithiran
- ...Petitioners

vs.

Kannupaiyan @ Arthanari

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Fair and Final Order dated 13.12.2022 made in I.A.No.2 of 2022 in O.S.No.153 of 2018 on the file of the District Munsif Court, Bhavani.

For Petitioners : Mr.R.Prabakar

For Respondent : Mr.V.Vijaykumar

ORDER

This Civil Revision Petition is filed by the defendants against the order passed in I.A.NO.2 of 2022 dated 13.12.2022 in O.S.No.153 of 2018



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on the file of the District Munsif Court, Bhavani.

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2. Heard Mr.R.Prabakar, learned counsel appearing for the petitioners and Mr.V.Vijaykumar , learned counsel appearing for the sole respondent.

3. The application was taken out by the revision petitioners under Order 26 Rule 9 r/w Section 151 of C.P.C. to re-issue the warrant directing the Advocate Commissioner to note down the pipeline laid by the plaintiff and to file a report and sketch.

4. The suit was filed by the sole plaintiff Kannupaiyan @ Arthanari against the present revision petitioners (D1 to D3) for permanent injunction not to damage the suit cart track and not to disturb the enjoyment of the plaintiff over the cart track.

5. The respondent/plaintiff resisted the said petition by filing a counter stating that the said prayer is against the prayer found in the plaint.

6. It appears that the suit is opened and P.W.1 is in the box for further examination. It is also relevant to note that the Advocate



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Commissioner has twice visited the suit property and filed his reports. In the second report, he has specifically stated that the plaintiff and the defendants have laid pipelines and it is shown as 'x' and 'y' in the rough sketch.

7. Again, a petition was filed by the defendants to re-send the same Advocate Commissioner ordering him to note down about the pipelines. When, the aforesaid details are found in the second report filed by the Advocate Commissioner, it should not lie in the mouth of the revision petitioners to re-issue the warrant to the same Advocate Commissioner.

8. Based on these observations, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Connected C.M.P. stands closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssa



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R.KALAIMATHI, J.
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