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C.R.P.No.925 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.925 of 2021
and
C.M.P.No.7512 of 2021

Varadarajee @ Varadarajan (Died)

2.Kalaiselvi

3.Dhanalakshmi

4.Thangamani

5.Raj Kumar

... Petitioners

Vs.

1.Paramasivam

2.Pannerselvam

3.Poonkodi

4.P.Vijay

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 16.10.2020 in I.A.No.93 of 2019 in O.S.No.273 of 2018 on the file of the District Munsif cum Judicial Magistrate, Vazhapadi.

For Petitioners

: M/s.S.Pradeepa

for Mr.A.Thiyagarajan

For Respondents

: Mr.N.Umapathi



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner to note down the physical features.

2. The petitioner herein filed a suit for bare injunction against the respondents in respect of 0.12-17 cents of land in Survey No.78/3 in Kullampatty Village, Vazhapadi Taluk, Salem district.

3. Pending the suit, the petitioner preferred an application seeking appointment of Advocate Commissioner to note down the existing physical features of the suit property. The same was opposed by the respondents by filing counter.

4. The Court below dismissed the application filed by the petitioners on the ground that in a suit for bare injunction, the petitioner has to prove his lawful possession by leading independent evidence and appointment of Advocate Commissioner to note down the physical feature is not at all necessary.



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5. It is seen from the plaint averments that petitioner/plaintiff claiming right over 0.12-17 cents of land in Survey No.78/3 . The petitioner asserted his title as well as possession over the said land and claimed that respondents are attempting to interfere with his peaceful possession. The respondents filed written statement claiming right over 6 ½ cents in the very same survey number and sought for dismissal of the suit on the ground that bare injunction suit will not lie against co-owner. In such circumstances, there is no necessity to note down the features available in the suit property. It is not shown by the petitioner how noting down the physical features will help the Court to decide the controversies involved in the suit. In such circumstances, I do not find any illegality or irregularity in the order passed by the Court below.

6. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.01.2024

Index : Yes / No
Internet : Yes / No
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S.SOUNTHAR , J.

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To

The learned District Munsif cum Judicial Magistrate, Vazhapadi.

CRP.No.925 of 2021 and
C.M.P.No.7512 of 2021

29.01.2024

4/4