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C.R.P.No.1458 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.1458 of 2024 and
C.M.P.No.7831 of 2024

1.Bagiyalakshmi
2.Durai @ Balakrishnan
3.Soundar
4.Subramanian

... Petitioners

Vs.

1.P.Rasu
2.P.Balraj

... Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of The Constitution of India, to set aside the fair and decreetal orders dated 06.02.2024 in I.A.No.9 of 2024 in O.S.No.254 of 2015 on the file of the Additional District Munsif Court, Tiruppur and allow the above Civil Revision Petition.

For Petitioners : Mr.C.R.Prasanan

ORDER

This Civil Revision Petition has been preferred to set aside the fair and decreetal orders dated 06.02.2024 in I.A.No.9 of 2024 in O.S.No.254 of 2015 on the file of the Additional District Munsif Court, Tiruppur and allow the



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above Civil Revision Petition.

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2. Heard Mr.C.R.Prasanan, learned counsel for the petitioners.

3. The learned Trial Judge, after evidence has been let in by both sides, has decided to have an Advocate Commissioner appointed in order to elucidate the real facts in the case. The entire dispute is whether it is a public pathway or a private pathway set apart by the defendants *inter se*. Both sides have let in evidence and the matter is at the stage of arguments. At that stage, the learned Judge has decided, as seen from paragraph No. 8 (ix) of the order, that he wanted to convince himself by appointing an Advocate Commissioner.

4. As pointed out above, this is an order based on subjective satisfaction on objective material placed before me. In matters of Advocate Commissioner, if some evidence is on record, the Court can always appoint a Commissioner to elucidate the true facts in order to cull out the matter in issue, see, *In Re P.Moosa Kutty, (1953) 1 Mad LJ 632* and *A.Nagarajan Vs. A.Madhana Kumar, 1996 (1) LW 278*. As it is an order that has been passed by the learned Trial Judge exercising his discretion after evidence has been recorded by both parties, I am not inclined to interfere. Furthermore, by an Advocate



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Commissioner visiting the site and submitting a report, no prejudice will be caused to the Civil Revision Petitioners / defendants. In case, the petitioners have any objection to the report, it is always open to them to object to the same or / and cross examine the Advocate Commissioner in order to bring out the true light of the case. At this stage, I am not inclined to interfere.

5. With the above observations, this Civil Revision Petition is dismissed. It is open to the Revision Petitioners to give an objection as well as to file a memo of objection at the time of inspection. No costs. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Speaking / Non Speaking Order
gsk

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V.LAKSHMINARAYANAN,J.

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To
The Additional District Munsif Court,
Tiruppur.

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C.M.P.No.7831 of 2024

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