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C.R.P.No.1969 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1969 of 2024

and

C.M.P.No.10418 of 2024

1.M.Kalyani

2.K.Mummoorthy

... Petitioners

Vs.

K.Venkatachalam

... Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the fair and decreetal order passed in I.A.No.13 of 2023 in O.S.No.221 of 2013 dated 11.09.2023 pending on the file of learned Additional District Munsif Court, Avinashi by allowing the civil revision petition.

For Petitioners : Mr.N.Umapathi

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decreetal order passed in I.A.No.13 of 2023 in O.S.No.221 of 2013



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dated 11.09.2023 pending on the file of Additional District Munsif Court,
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Avinashi.

2.The petitioners/plaintiffs had filed this revision challenging the dismissal of I.A.No.13 of 2023. The respondent filed I.A.No.1408 of 2018 in O.S.No.221 of 2013 seeking to appoint an Advocate Commissioner, in which, Advocate Commissioner was appointed to note down the physical features. Since there was some discrepancy in the Advocate Commissioner's report and to the report received from the Revenue Divisional Officer, a Memo was filed by the petitioners on 22.09.2022 objecting the report in I.A.No.1408 of 2018. The Memo has been received by the Court, it form part of the records and I.A.No.1408 of 2018 was posted on 15.12.2022 for arguments. Due to sudden illness of the second petitioner, he was unable to contact his counsel and give instructions for arguments. Hence, the trial Court closed the I.A.No.1408 of 2018. Therefore, the petitioners filed I.A.No.13 of 2013 in O.S.No.221 of 2013 to reopen I.A.No.1408 of 2018 for arguments.



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The trial Court dismissed I.A.No.13 of 2013 for the reason that the suit is of the year 2013, further the order was passed on merits and hence, appeal alone is maintainable.

3.The contention of the learned counsel for petitioners is that petitioners objections may be taken note of and the same can be brought in evidence during trial and the dismissal of I.A.No.13 of 2023 should not draw any adverse inference on the petitioners' contention.

4.Considering the submissions made and on perusal of the materials available on record, it is seen that in this case, the petitioners already filed their objections to the Advocate Commissioner's report by way of Memo. Now, in this case evidence is yet to be recorded. Any way, already petitioners' objections are there in the record by way of Memo and also considering the fact that the suit is of 10 years old, this Court is not inclined to entertain this petition.



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M.NIRMAL KUMAR, J.

rsi

5.Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

rsi

To

The Additional District Munsif,
Avinashi.

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and

C.M.P.No.10418 of 2024