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C.R.P.No.1794 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.1794 of 2021 and
C.M.P.No.13925 of 2021

1.Vadivannan
2.Elumalai

... Petitioners

Vs.

1.Pichan
2.Kamaraji
3.Arunachalam
4.Venkatachalapathy
5.Selvaraji
6.Sivakumar
7.Sankar
8.Arunachalam
9.Andi

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order passed by the District Munsif Court, Harur, Dharmapuri District dated 31.03.2021 made in I.A.No.539 of 2019 in O.S.No.73 of 2019.

For Petitioner : M/s.R.Geethalakshmi

for Mr.J.Pradeep

For Respondents : M/s.S.Kumaradevan



ORDER

The Civil Revision Petition is filed by the petitioners aggrieved by the order passed by the Trial Court allowing the application for appointment of Advocate Commissioner filed by the respondents to note down the physical features.

2. The petitioners herein filed a suit for bare injunction against the respondents. The said suit was resisted by the respondents by raising a plea that there was a cart track in the suit property and the same has been used by them for years. It was also pleaded by the respondents that they have no other alternative access to reach the Moolakadu village. It was also stated by the respondents that suit property belonged to Tamil Nadu Bhoodan Board.

3. The learned counsel for the petitioners submitted that that suit is for bare injunction and the main object of the respondents is to collect evidence by appointing Advocate Commissioner. Therefore, the order impugned in this revision is liable to be set aside.



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4. The petitioner herein filed a suit for bare injunction claiming exclusive possession over the suit property. The respondents in the written statement claimed that there was a cart track running through the suit property. Therefore, if the physical features of the suit property are noted down by the Advocate Commissioner, it will enable the Court to come to the conclusion whether there is a cart track running through the suit property or not. It will have a bearing on the claim made by the petitioners that they are having exclusive possession over the suit property. Therefore, certainly, appointment of Advocate Commissioner to note down the physical features will help the Court to come to the correct conclusion with regard to the exclusive possession claimed by the petitioners. Hence, the order impugned appointing Advocate Commissioner for noting down the physical features will not cause serious prejudice to the petitioners. Therefore, there is nothing on record to interfere with the order impugned in this revision.



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

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

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To

The learned District Munsif Judge, Harur, Dharmapuri District



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S.SOUNTHAR, J.

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