



C.R.P.No. 2645 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

C O R A M:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No. 2645 of 2024
and C.M.P.No.13856 of 2024

1.Ponnusami

2.Raja

3.Alamelu

4.Vijaya

5.Palaniammal

6.Saroja

... Petitioners

Vs.

Bhuvaneswaran

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 08.11.2023 passed in I.A.No.191 of 2021 in O.S.No.134 of 2021 on the file of the Additional Sub Court, Vridhachalam.

For Petitioner : Mr.T.Sezhian

ORDER

This Civil Revision Petition is filed as against the order dated 08.11.2023 passed in I.A.No.191 of 2021 in O.S.No.134 of 2021 by the learned Additional Subordinate Judge, Vridhachalam.



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2. O.S.No. 134 of 2021 is a suit for bare injunction. In the said suit, an application was take out by the plaintiff for appointment of Advocate Commissioner in I.A.No.191 of 2021 to measure the suit properties. The case of the plaintiff is that due to heavy rainfall and flood, the lie and layout of the suit schedule mentioned property changed and lot of thorny shrubs had grown over the property. In order to identify the property, the aforesaid application was taken out. This was resisted by the defendants stating that the plaintiff is attempting to collect evidence by appointment of Advocate Commissioner.

3. The learned Trial Judge considering the pleas of both sides allowed the application for appointing the Advocate Commissioner, against which, the present revision.

4. Mr.T.Sezhian would vehemently contend that in the suit for injunction, the question of appointment of Advocate Commissioner does not arise. He would further state that the plaintiff is trying to prove title by way of the report of the Advocate Commissioner.

5. I feel both the submissions are misplaced. It is the case of the plaintiff that on account of the flood and heavy rains, the lie and lay out of the property has changed. He wants to bring this fact to the notice of the Court by virtue of



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the Advocate Commissioner visiting the property and submitting a report, but the plaintiff cannot claim any right over the same. As there is a dispute in identity of the property, it is better that a Commissioner visits the spot, measures the property, and submits his Report.

6. It is needless to state that the Commissioner will not submit a Report as to who is in possession of the property nor will he give any finding on title . In case he does so, the learned Trial Judge is duty bound to ignore the same.

7. With the above observation, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

19.07.2024

msv

Index:Yes/No

Internet:Yes/No

Speaking order: Non-speaking order

Neutral Citation: Yes/No



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V.LAKSHMINARAYANAN,J.

Msv

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