



C.R.P.No.4652 of 2023
and C.M.P.No.27685 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

C.R.P.No.4652 of 2023
and C.M.P.No.27685 of 2023

1.Desingu

2.Munisamy

... Petitioners

Vs.

1.Sampath

2.The Tahsildar
Taluk Office, Polur.

3.The District Collector,
District Collectorate,
Thirvannamalai.

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order in I.A.No.85/2019 in O.S.No.360/2017 dated 22.08.2023 on the file of the District Munsif Court, Polur, Thiruvannamalai District.

For Petitioners : Ms.S.Gajalakshmi



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ORDER

The revision petition has been filed to set aside the fair and decreetal order dated 22.08.2023 made in I.A.No.85 of 2019 in O.S.No.360 of 2017 on the file of the District Munsif Court, Polur, Thiruvannamalai District.

2. The revision petitioners are the plaintiffs in O.S. No.284 of 2018 on the file of the District Munsif Court, Polur, Thiruvannamalai District. They filed the suit for permanent injunction and mandatory injunction against the respondents. During the pendency of the suit, they filed an application in I.A.No.85 of 2019 under Order XXVI Rule 9 and Section 151 CPC to appoint an Advocate Commissioner to measure the suit property with the help of land surveyor. The learned District Munsif, Polur, Thiruvannamalai District, dismissed the said application vide her orders dated 22.08.2023 on the ground that the commissioner should not be appointed to gather evidence to prove the case of the parties. Parties should prove their case by themselves. Challenging the same, the present



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WEB COURT Civil Revision Petition is filed.

3. A perusal of the record shows that the petitioners/plaintiffs filed the said suit praying to grant permanent injunction against the first defendant, besides granting mandatory injunction against the defendants 2 & 3 by directing them to cancel the patta in the name of the first defendant and restore the same as Punnal kuttai. The first defendant filed written statement denying the allegations of the plaintiffs in the plaint and also contended that his father Arumugham was granted patta for S.No.4 at Kalvasal Village by the Revenue Department about 15 years back. In such circumstances, it is not necessary to appoint an Advocate Commissioner to inspect the suit property and to note down the physical features. Therefore, I do not find any infirmity in the order passed by the trial Court.



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4. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

02.01.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

V.SIVAGNANAM,J.

mtl



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To

1.The District Munsif Court, Polur,
Thiruvannamalai District.

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