



1

C.R.P.(MD)No.803 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.803 of 2024 and
C.M.P.(MD)No.4509 of 2024

1. P.Muthukaruppan
2. P.Rajendran
3. T.Palanichamy

... Petitioners/Petitioners/
Plaintiffs

Vs.

1. K.Ramasamy
2. R.Karuppasamy

... Respondents/Respondents/
Defendants

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and ex-order dated 22.12.2023 made in I.A.No.77 of 2021 in O.S.No.20 of 2021 on the file of the District Munsif cum Judicial Magistrate Court, Natham and to allow the same.

For Petitioners : Mr.K.Hemakarthiskeyan

For Respondents : Mr.S.Sarvagan Prabhu



WEB COPY



ORDER

Heard both sides.

2. The plaintiffs in O.S.No.20 of 2021 on the file of the District Munsif cum Judicial Magistrate Court, Natham are the revision petitioners herein. The suit is for declaration and permanent injunction. The plaintiffs filed I.A.No.77 of 2021 for appointment of Advocate Commissioner to inspect the suit properties and measure the same and note down its physical features. The Court below vide order dated 22.12.2023 dismissed the IA. Challenging the same, this civil revision petition came to be filed.

3. The learned counsel appearing for the revision petitioners reiterated all the rival contentions set out in the memorandum of grounds of the civil revision petition and called upon this Court to set aside the impugned order and allow the civil revision petition.

4. Per contra, the learned counsel appearing for the respondents submitted that the impugned order does not call for interference.

5. I carefully considered the rival contentions and went through the materials on record.



WEB COPY

6. For appointing the Advocate Commissioner under Order 26 Rule 9 CPC, the applicant must make out a case. An Advocate Commissioner cannot be appointed for the asking. In this case, the affidavit filed in support of I.A.No.77 of 2021 is virtually a repetition of the plaint averments. The revision petitioners have not set out any reason as to why they are seeking appointment of Advocate Commissioner. That is why, the Court below had dismissed I.A.No.77 of 2021 on the ground that proper reasons have not been adduced in respect of the relief sought for.

7. I find the said reason to be factually correct. Interference is not warranted. This civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.10.2024

Index : yes/No
Internet: Yes/No
PMU



WEB COPY



4

C.R.P.(MD)No.803 of 2024

G.R.SWAMINATHAN,J.

PMU

To

The District Munsif cum Judicial Magistrate,
Natham.

C.R.P.(MD).No.803 of 2024

15.10.2024