



C.R.P(MD).No.1669 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.1669 of 2023

and

C.M.P(MD)No.8328 of 2023

1.Ramadoss

2.Balakrishnan

3.Ramachandran ... Petitioners / Petitioners / Defendants 1,2 &4

Vs

1.Arjunan

2.Ravichandran ... Respondents / Respondents / Plaintiffs

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.02.2023 passed in I.A.No.400 of 2017 in O.S.No.39 of 2017 on the file of learned District Munsif Court, Lalgudi.

For Petitioners : Mr.M.P.Senthil

For R1 and R2 : Mr.D.Saravanan



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ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 02.02.2023 passed in I.A.No.400 of 2017 in O.S.No.39 of 2017 on the file of learned District Munsif Court, Lalgudi.

2. The suit in O.S.No.39 of 2017 was filed by the respondents herein, seeking the relief of permanent injunction and for costs. The revision petitioners namely, the defendants appeared and filed written statements and stating that the property in dispute lying in a contiguous nature, for that purpose only they filed the petition to appoint an advocate commissioner to make a local visit and file a report. That came to be dismissed by the trial Court stating that it will amount to collection of evidence and no proper reason was also mentioned by the revision petitioners in that petition. The above said issue can be resolved or decided on the basis of the evidence to be let in by the parties. Against which, this Civil Revision Petition is preferred.

3. Learned counsel for the petitioner insisted that only for the above said limited purpose, he wanted a commissioner to be appointed.



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4. Per contra, learned counsel for the respondent would submit that absolutely there is no necessity to appoint an advocate commissioner.

5. Whether the property lies in a contiguous manner and whether there is a boundary exist between the properties of both sides, can be decided on the basis of the evidence. If any necessity arises during the course of evidence or trial, as the case may be, to appoint a commissioner to bring on record the physical features, then the Court can suo motu make the appointment or the parties are at liberty to seek appointment of commissioner. It is a premature stage to decide the issue, now.

6. With the above said observation, this Civil Revision Petition is disposed of. No costs. Consequently connected miscellaneous petition stands closed.

04.03.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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G.ILANGO VAN, J.

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To

- 1.The District Munsif Court, Lalgudi.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
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