



C.R.P.(MD)No.1936 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.10.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1936 of 2024
and
C.M.P.(MD)No.11041 of 2024

1.Rajalingam

2.Thirumudi Alias Ayyar

... Petitioners / Petitioners / Defendants

Vs.

Family Manager Malayandi,

... Respondent / Respondent / Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.06.2024 in I.A.No.3 of 2022 in O.S.No.154 of 2021 on the file of the Additional District Munsif Court (FAC), Kulithalai.

For Petitioners : Mr.S.Pon Senthil Kumaran

For Respondent : Mr.T.Robert Chandrakumar



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ORDER

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Heard both sides.

2. The defendants in O.S.No.154 of 2021 on the file of the Additional District Munsif Court, Kulithalai are the revision petitions herein. The petitioners herein filed I.A.No.3 of 2022 for appointment of advocate commissioner under Order 26 Rule 9 of C.P.C. IA was dismissed vide order dated 04.06.2024. Questioning the same, this civil revision petition came to be filed.

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

4. Per contra, the learned counsel appearing for the respondent submitted that the impugned order is well reasoned and that it does not warrant interference.

5. I carefully considered the rival contentions and went through the materials on record. The suit property includes the well. The case of the



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revision petitioners is that they are having half share. It is their further case that originally, pipelines had been installed in the well. While the plaintiff would contend that the pipelines have been removed completely, the revision petitioners contend that that is not a case. The petitioners have filed counter claim in the suit. They want restoration of the original position. To find out that if the pipelines are still there, they want an advocate commissioner to be appointed. There is a dispute regarding the availability of the pipelines. This factual aspects can be elucidated only by appointing an advocate commissioner.

6. In this view of the matter, the impugned order is set aside. The Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.10.2024

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

To:

The Additional District Munsif Court (FAC), Kulithalai.



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G.R.SWAMINATHAN, J.

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