



C.R.P(MD)No.1961 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.1961 of 2024
and
C.M.P(MD)No.11146 of 2024

1.Periyasami

2.Seethalakshmi

3.Dharmaraj

... Petitioners /
Petitioners /
Defendants

Vs.

1.Namachivayam

2.Devaki

... Respondents/
Respondents /
Plaintiffs

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.02.2024 made in I.A.No.1 of 2023 in O.S.No.10 of 2012 on the file of District Munsif, Thuraiyur.



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For Petitioners : Mr.Raguvaran Gopalan

For Respondents : Mr.K.Prakash

ORDER

Heard both sides.

2.The defendants in O.S.No.10 of 2012 on the file of District Munsif Court, Thuraiyur are the revision petitioners herein. The suit is for declaration and permanent injunction. In the said suit, the petitioners herein filed I.A.No.1 of 2023 for appointing an Advocate Commissioner. The said IA was dismissed vide order dated 02.02.2024. Questioning the same, this Civil Revision Petition came to be filed.

3.The learned counsel 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.I am not swayed by the said submissions of the learned counsel for the petitioners. As rightly pointed out by the learned counsel for the



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respondents, the only issue that is to be decided is regarding the character of the suit property. According to the plaintiffs, it is a common pathway. According to the defendants, it is not so. There is no dispute regarding the identity of the property. When the dispute is regarding the character not identity, the question of appointing an Advocate Commissioner does not arise at all. The Court below rightly negated the petitioners' application. Interference is not warranted.

5.This Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

25.09.2024

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

To

The District Munsif,
Thuraiyur.



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G.R.SWAMINATHAN, J.

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