



C.R.P.(MD)No.2165 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2165 of 2024
and
C.M.P.(MD)No.12301 of 2024

Alagarsamy (died)

1.Salamol

2.Alageshwari

3.Alagar

4.Krishnan

... Petitioners / Petitioners / Defendants 2 to 5

Vs.

1.Jegavathi

2.Tamilselvi

3.Pandiyan

4.Kalirasu

5.Chinnasamy

6.Venkidasamy

7.Sivakumar

8.Sanjeevi

... Respondents / Respondents / Plaintiffs



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the civil revision petition by setting aside the order and decree dated 25.06.2024 made in I.A.No.7 of 2022 in O.S.No.53 of 2016 on the file of the District Munsif Court, Andipatti.

For Petitioner : Mr.M.O.Thevan Kumar

ORDER

The defendants 2 to 5 in O.S.No.53 of 2016 on the file of the District Munsif Court, Andipatti are the revision petitioners herein.

2. The suit is one for permanent injunction. The revision petitioners filed IA.No.7 of 2022 for appointment of advocate commissioner. IA was dismissed vide order dated 25.06.2024. Questioning the same, this civil revision petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the grounds of revision. Relying on the unnumbered order dated 04.01.2013 made in C.R.P.(NPD)(MD)No.2192 of 2012 (Panjavarnam Vs. Visuvasam Jeyaseeli), he submitted that just like “A picture is a worth a 1000 words”. The sketch of an advocate commissioner would facilitate better adjudication of the issues involved in the case. He called upon this Court to set aside the impugned order and grant relief as prayed for.



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4. I am not swayed by the submission of the learned counsel appearing for the revision petitioners. The court below had noted that when the plaintiffs filed I.A for appointment of an advocate commissioner, the revision petitioners opposed the same leading to dismissal of IA on 02.07.2019. It was further noted that suit was instituted in the year 2016 and written statement was also filed in 2016. The defendant side was originally closed and subsequently, reopened. The court below came to the conclusion that filing of IA is highly belated. More than anything else, the suit is one for permanent injunction. When IA filed by the plaintiffs was dismissed on the ground that evidence cannot be collected through the advocate commissioner for establishing possession over the suit property, the very same logic and reason will govern the IA filed by the defendants also. That apart, inspection is sought not for the suit property but for a larger property that is set out as schedule in IA. The court below has given solid and convincing reasons for dismissing IA. Interference is not warranted in exercise of jurisdiction under Article 227 of the Constitution of India. The civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN, J.

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To:

The District Munsif Court, Andipatti.

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