



C.R.P.(MD)No.2297 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2297 of 2024
and
C.M.P.(MD)No.13009 of 2024

1.C.Jambulingam
2.C.Rajasekaran
3.M.Arun
4.M.Amutha
5.C.Ilango

... Petitioners / Petitioners / Defendants

Vs.

1.S.P.Udayappan
2.SP.R. Valliammai
3.RM.Subramanian

... Respondents / Respondents / Plaintiffs

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the same the fair and decreetal order passed in I.A.No.1 of 2019 in O.S.No.271 of 2016, dated 12.03.2024 on the file of the learned District Munsif Court, Melur and to allow this civil revision petition.

For Petitioners : Mr.A.R.Sethupathy



C.R.P.(MD)No.2297 of 2024

WEB COPY

For Respondents : Mr.R.Senthilkumar
for Mr.A.P.Athithan for R1 & R3
: No appearance for R2

ORDER

Heard both sides.

2. O.S.No.271 of 2016 has been filed by the respondents herein for mandatory injunction and permanent injunction. In the said suit, the revision petitioners herein filed I.A.No.1 of 2019 for appointment of another advocate commissioner for locating the petition mentioned property with reference to the title deeds and the revenue records and note down its physical features and file the report. The Court below vide order dated 12.03.2024 dismissed IA. Challenging the same, this civil revision petition came to be filed.

3. The learned counsel appearing for the revision petitioners submitted that the earlier advocate commissioner submitted his report even without measuring the suit property and that therefore, it is flawed on the very face of it. This submission might probably be well founded.

4. I do not want to render any finding at this stage. But then, a learned Judge of this Court in the decision reported in **2024 (1) MWN (Civil) 353 (R.Pankajam Vs. C.Subramanian)** had held that the question of appointing the second commissioner will arise only if the earlier commissioner's report is



C.R.P.(MD)No.2297 of 2024

scrapped as flawed. An advocate commissioner's report can be scrapped only at the appropriate stage. Such a stage has not arisen till date. Admittedly, the revision petitioners have not filed any IA for scrapping the earlier commissioner's report. Therefore, I cannot fault the impugned order passed by the court below. It is sustained. I however grant liberty to the revision petitioners to file a fresh IA at the appropriate stage for scrapping the earlier commissioner's report. If such IA is allowed, it is also open to the petitioners herein to renew the prayer now sought for.

5. The impugned order is sustained. With the aforesaid liberty to the revision petitioners, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.10.2024

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

To:

The District Munsif Court, Melur.



WEB COPY



C.R.P.(MD)No.2297 of 2024

G.R.SWAMINATHAN, J.

rmi

C.R.P.(MD)No.2297 of 2024

16.10.2024