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C.R.P.No.461 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.461 of 2024
and
C.M.P.No.2195 of 2024

A.Dhanavanthan (Died)

1.Kuberan

2.Paranthaman

3.Arangannal

4.A.Sathiyamurthi

5.Malliga

6.Saritha

... Petitioners

VS.

S.Sarathi Perumal

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 17.10.2023 made in



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I.A.No.18 of 2020 in A.S.No.23 of 2018 on the file of the Sub Court,
Arakkonam.

For Petitioners : Mr.P.Krishnan

For Respondent : Mr.A.Gouthaman

ORDER

The Civil Revision Petition is filed challenging the order passed by the First Appellate Court dismissing the application filed by the petitioners seeking appointment of Advocate Commissioner to note down the physical features and measure the suit property with the help of Surveyor in I.A.No.18 of 2020 in A.S.No.23 of 2018, dated 17.10.2023.

2. The respondent herein filed a suit for permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit property. The said suit was resisted by the petitioners/defendants by filing the written statement. The suit was decreed by the Trial Court. Aggrieved by the decree passed by the Trial Court, the



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petitioners/defendants have filed the first appeal in A.S.No.23 of 2018 on the file of the Sub Court, Arakkonam. Pending the first appeal, the instant application has been filed by the petitioners seeking appointment of Advocate Commissioner to note down the physical features and measure the suit property. The same was dismissed by the First Appellate Court. Aggrieved by the same, the petitioners have come before this Court.

3. The learned counsel appearing for the petitioners vehemently contended that if Advocate Commissioner is appointed will certainly help the Court to come to the conclusion to decide the main controversy involved in the suit.

4. A perusal of the affidavit filed in support of petition for appointment of Advocate Commissioner would indicate that it was stated by the petitioners in the written statement that they have got right over 0.03 cents in suit survey number and said 0.03 cents were already fenced by them. In order to prove the existence of fencing in the suit property, the instant application has been filed seeking appointment of Advocate Commissioner.



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5. It is seen from the impugned order in order to show the existence of fencing in the suit property, the petitioners have filed photographs before the Trial Court and marked the same as Ex.B5. When the 1st defendant was examined as DW.1, he was cross examined with regard to the photographs marked by him. The suggestion was also put to DW.1 that it was incumbent on the defendants to prove existence of fencing by seeking appointment of Advocate Commissioner. The said suggestion was denied. Atleast after cross examination by the plaintiff, the defendants could have filed an application seeking appointment of Advocate Commissioner before the Trial Court. However, after denying the suggestion, they kept quite and argued the matter based on the evidence available on record. Therefore, the present application for appointment of Advocate Commissioner filed by the petitioners before the First Appellate Court is highly belated one. Even assuming the Advocate Commissioner is appointed to note down the physical features, he is not empowered to give any finding with regard to the person in possession of the property.

6. In a suit for permanent injunction, the Court is primarily concerned



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with the lawful possession of the plaintiff. In such circumstances, the appointment of Advocate Commissioner to note down the physical features and to measure the same, is not at all necessary in a suit for injunction filed by the respondent herein. Therefore, I do not find any error in the impugned order passed by the Sub Court, Arakkonam in I.A.No.18 of 2020 in A.S.No.23 of 2018, dated 17.10.2023.

7. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

18.11.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Sub Court,
Arakkonam.



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S.SOUNTHAR, J.

dm

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