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CRP(PD).No.34 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.34 of 2025

and

CMP.No.284 of 2025

- 1.Kotteswaran
- 2.Perumal
- 3.Periyasamy
- 4.Pushpa
- 5.Sabari
- 6.Sathish
- 7.Santhosh
- 8.Sarvesh

... Petitioners

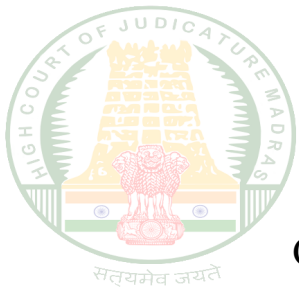
Vs.

- 1.Ranganayagi
- 2.R.Nagarathinam
- 3.R.Thyagarajan

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order of the learned Additional District Judge of Krishnagiri dated 06.07.2024 in I.A.No.6 of 2024 in OS.No.144/2023 and allow the above CRP.

For Petitioner : M/s.V.Nicholas

**ORDER**

Challenging the dismissal of their application for appointing an

Advocate Commissioner to note down the physical features and to measure the property with the assistance of the Village Administrative Officer and the Surveyor, the petitioners are before this Court.

2. The petitioners are the defendants 1 to 7 and 9 in a suit OS.No.144 of 2023. The suit OS.No.144 of 2023 has been filed by the respondents against the petitioners for declaration of title, permanent injunction restraining the petitioners from interfering with their possession and for compensation of Rs.5,00,000/-. The suit has been instituted on the file of Additional District Judge, Krishnagiri in respect of 5 items of lands situate at Vilangamudi Village, Pochampalli Taluk, Krishnagiri District and pathway rights to the said lands.

3. The petitioners herein are resisting the suit by contending that the identity of the suit property has not been given properly and that apart, usufructs, water pipe lines, cement shed, Well and Pumpset etc. that exist on the property have not been taken into consideration or



given a correct value and that the court fee paid is also very low.

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4. In the affidavit filed in support of the application for the appointment of an Advocate Commissioner, the petitioners would submit that in the year 1960 the land was levelled and the petitioners/defendants 1 and 2 and late Desa Gounder had levelled the ground and water was drawn from the well situate in the land possessed by Desa Gounder. Defendants 1 and 2 had laid PVC pipes in the said property. The petitioners would submit that from the year 1960, they have been in possession and enjoyment of the subject property carrying on agricultural activities and have therefore perfected title.

5. The petitioners would further submit that in order to establish the following facts:-, (i), The existence of the pipelines, (ii) the 1st defendant is in possession of the property adjacent to the property abutting the Pochampalli main road, (iii), the erection of a cement sheet shed, (iv) the service connection obtained for the cement sheet shed, (v) the sinking of a borewell in the subject property and (vi) the

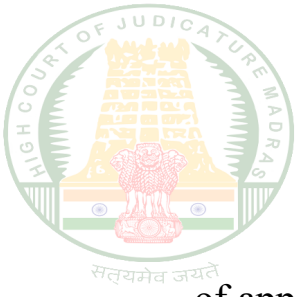


erection of a Samadhi for Sathya, the daughter of the 1st defendant in the suit property, the Advocate Commissioner was sought to be appointed.

6. The respondents had filed a counter inter alia contending that the earlier suit filed by the petitioners for specific performance has been dismissed and the petition seeking an appointment of an Advocate Commissioner was only to gather evidence with reference to possession which an Advocate Commissioner cannot do.

7. The learned Additional District Judge, Krishnagiri after considering the arguments and perusing the records proceeded to dismiss the said application holding that the application is filed only with an oblique motive of establishing possession. Aggrieved by the same, the petitioners are before this court.

8. Heard the learned counsel for the petitioners and perused the records.



9. Considering the averments in the application filed in support of appointing an Advocate Commissioner and also taking into account the reasons for appointing an Advocate Commissioner, the findings of the learned Additional District Judge, Krishnagiri that the application is filed only with an oblique motive of establishing possession appears to be correct and I see no reason to interfere with the same.

10. Therefore the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

03.02.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Additional District Judge of Krishnagiri



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P.T. ASHA. J.,

(shr)

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