

**IN THE COURT OF THE DISTRICT MUNSIF, SULUR**

Present : **Tmt.N.Renuga., B.A., B.L.,**

District Munsif, Sulur

Monday the 3<sup>rd</sup> day of June 2024

**IA.8/2024**

**in**

**O.S.No.168/2019**

1. K.Velusamy

2. K.Kandhasamy

3. K.Rameshkumar

4. K.Maheshkumar

...Petitioners/ Plaintiffs

/VS/

K.Kuppusamy Chettiar

...Respondent/ Defendant

This petition coming on 29.04.2024 for final hearing before me in the presence of Thiru.B.Muralidharan, Advocate for the Petitioners and Thiru.R.Mahesan, Advocate for the Respondent and upon perusing the records, and this court made the following:

**ORDER**

Petition filed by the petitioners under Order 16 Rule 1 and R/W section 151 of CPC to issue witness summons to the Advocate Commissioner and to give evidence of suit property cart track in actual possession.

**1. The brief averments of the affidavit filed by the petitioners as follows:-**

1.1. The petitioners/plaintiffs are filed suit for permanent injunction of suit cart track and the defendant's have filed an another suit for permanent injunction of suit

cart track in O.S.No.72/2020.

1.2. The petitioners/plaintiffs have been examined as PW.1. To prove petitioners/plaintiffs' case they want to exam the Advocate Commissioner, to measured the disputed suit property cart track and along with filed an Advocate Commissioner report and to speck about disputed suit property cart track in actual possession regards and evidence.

1.3. Now the petitioners/plaintiffs are filing this petition to summon the Advocate Commissioner officials to give evidence to prove their suit property cart track in actual possession. Hence, this petition.

**2). The brief averments of the counter statement filed by the respondent as follows:-**

2.1. The petition is false, frivolous and unsustainable in law and on facts. In this case the plaintiff admitted that existence of Panchayath road in S.F.No.179 in his evidence. Further the plaintiff have put up layout of their property and the said layout road are joint in the Kannampalayam Panchayath road. The said layout are gifted to the Kannampalayam panchayath by the plaintiffs.

2.2. The plaintiffs further in the said settlement deed stated the suit cart track is a private road. Already the Advocate commissioner has filed his report along with the report of surveyor. The measurements are very clear. In the suit cart track after the sale by the plaintiffs their purchaser have no right over the suit cart track. Further they cane reach through the Kannampalayam panchayath road to the Tirchy road. The Kannampalayam panchayat had installed board directing to reach Velan Villas. The said facts are already elucidate before this court but the plaintiffs have drag this proceedings by filed this petition to examine the Advocate Commissioner. Hence, this petition is to be dismissed.

**3. Points for consideration :-**

Whether the petition filed by the petitioners under Order 16 Rule 1 R/W section 151 of CPC to issue summon to the Advocate Commissioner is to be allowed?

**4. Points:-**

4.1. Heard the counsels for both the parties. The main suit is filed by the

petitioners/plaintiffs for the relief of permanent injunction and posted for further plaintiffs side evidence and on 06.03.2024. The plaintiffs filed this petition to summon the Advocate Commissioner.

4.2. On perusal of records the suit is for permanent injunction. This being the trial court it has given opportunity to both side to adduced their side oral and documentary evidence before this court to prove their case on merits. In view of the above said contention this court intent to give one more opportunity to prove the plaintiffs case by summoning to give evidence of suit cart track in actual possession. Hence, this court thinks it is necessary to summon the Advocate Commissioner to give evidence of suit property cart track in actual possession.

***In the result, this petition is allowed. No cost.***

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 3<sup>rd</sup> day of June 2024.

Sd/N.Renuga  
District Munsif,  
Sulur.

**List of witnesses and document on petitioners side:**

Nil

**List of witnesses and documents on Respondent side:-**

Nil

Sd/N.Renuga  
District Munsif,  
Sulur.

Draft/ Fair Order  
I.A.No.8/2024 in  
O.S.No.168/2019  
Dated : 03.06.2024  
DMC, Sulur.