

IN THE COURT OF THE DISTRICT MUNSIF, SULUR.

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

District Munsif, Sulur

Wednesday the 3rd day of April 2024

IA.No.9/2024

in

OS.No.937 of 2017

1. M/s.K.P.R.Cotton Millas Pvt.Ltd,
Rep by its Chairman K.P.Ramasamy
2. K.P.Ramasamy,
3. K.P.Deivasigamani,
- 4.P.Nataraj

...Petitioners /defendants

//VS//

1. Deivasigamani (died)
2. Subramaniam (died)
3. Rajamani
4. Shanmugasundaram
5. Senthil Prakash
6. Maheswari
7. Nikila
8. Minor.Gowri
(Represented by her next friend
Guardian and mother Maheswari)

...Respondents / Plaintiffs

This petition coming on 27.03.2024 for final hearing before me in the presence of Thiru.K.C.Loghanathan, Advocate for the petitioners and of Thiru.V.Raveendran, Advocate for the Respondents and upon hearing both sides arguments and having stood over for consideration till this day this court delivered the following.

ORDER

This petition filed by the petitioners under Order 16 Rule 1 and R/W section 151 of CPC to issue witness summons to the Taluk Surveyor to produce the

documents and to give evidence on that aspect.

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

1.1. The petitioners/defendants have contesting this case by filing their written statement now the present suit is pending in the stage of defendant side evidence. The plaintiffs filed the suit for mandatory injunction to remove the encroachment. The disputed property and its boundary has been measured by Taluk surveyor and the Advocate Commissioner has been filed his report before this court. Hence, the suit in respect of boundary dispute it is necessary to examine the Taluk Surveyor. Hence, this petition.

2. The brief averments of the counter filed by the Respondent as follows:

2.1. The petition is false, frivolous and not sustainable either on law. The petitioner is very vague and baseless. The petitioners absolute failed to disclose for what reasons want to the summon the Revenue department,. The petitioners has not present at the time of visit of Advocate Commissioner and Taluk Surveyor. Further the petitioners has not filed any objections to the Advocate Commissioner's report. Hence, there is no merits this petition ought to be dismissed.

3. Points for consideration:

Whether the petition under Order 16 rule 1 of CPC to issue witness summons to the Taluk Surveyor to produce the documents and to give evidence is to be allowed?

4. Points for determination :

4.1. The main suit is for permanent injunction and mandatory injunction. The property has been measured by Taluk Surveyor and Advocate Commissioner. Both have filed their report and the present suit is pending in the stage of defendant side witness. The petition filed by the petitioners/defendants for summoning the Sular Taluk Surveyor for examination in respect of the measurements and boundaries. This being the trial court there must be an opportunity to be given to both side to adduce their oral and documentary evidences. Hence, in the interest of justice this petition is

allowed.

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 3rd day of April 2024.

Sd/N.Renuga
District Munsif,
Sulur.

List of witnesses and document on petitioners side:

Nil

List of witnesses and documents on Respondents side:-

Nil

Sd/N.Renuga
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.9/2024 in
O.S.No.937/2017
Dated :03.04.2024
DMC, Sulur