

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI.

Present: S.Pragatheeshwaran, M.A., B.L.,

Additional District Munsif, Kulithalai.

O.S.No.158/2018, IA. No.01/2022

31st day of March 2023

1) Saraswathi

.... Petitioners/Plaintifs

/VS/

1. Vijayakumar and 5 Others

.... Respondents/Defendants

This petition is coming before me on 31.01.2023 or final Hearing in the presence of Mr.B.Malarkannan Advocate for Petitioners/plaintiffs and in the presence of Mr. V.R.Balasubramanian, Advoaacte for 1nd to 6th Respondents/Defendants and upon considering the oral and documentary evidence and other materials produced before this court, and having stood over consideration before this court till this day, this court delivers the following

ORDER

1) The suit was filed by the plaintiff for the relief of declaration and recovery of possession having regard to the “A” “B” and “C” Schedule Property. The main suit is pending at the stage of Trial.

2) The present petition is filed under order 26 rule 9 of CPC to appoint an Advocate Commissioner to note down the physical features and to find out the encroachment made thr Respondents/defendants about the “A” “B” ans “C” Schedule properties with the aid of qualified surveyor.

Now, the question/issue before this court that,

1. Whether this petition is liable to be allowed or not ?

3) Upon perusal of available record, this court found that the measurement of the suit property is necessary since the plaintiff has asserted that the defendants had encroached and made a super structure in the B and C schedule properties which are within A Schedule property, on the other hand, the defendants have been claiming the right over the property. Therefore, appointment of Advocate commissioner would not cause serious prejudice to the defendant. Moreover the appointment of Advocate commissioner is proper for the purpose of elucidating the matter in dispute. Therefore it is just and necessary to allow this petition in the interest of justice.

4) Accordingly Advocate Mr.S.Sudhagar is appointed as Advocate commissioner, the remuneration for the Advocate commissioner is fixed as Rs. 7,000/-. The parties to the proceedings are directed to co-operate with the Advocate commissioner to inspect the suit property. The Advocate commissioner is directed to inspect the suit property after giving due notice to the both parties and surveyor of that area and further directed to file his report and plan on or before 18.04.2023.

In the result, the this petition is allowed, no cost.

Dictated by me to the Typist, typed by him, and corrected by me and pronounced this Judgment in the Open Court, on this day of 31st day of March, 2023.

Additional District Munsif,
Kulithalai.