

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, THIRUMANGALAM
Present: Thiru. C.Dineshkumar, M.A., B.L.,
Principal District Munsif, Thirumangalam

Wednesday, the 2nd day of November 2022
I.A. No. 373/2021
in
O.S. No. 77/2014

1. V.Nagalingam
2. V.Kannan
3. V.Veeramuthu ... Petitioners /Plaintiffs

-Vs-

1. A.Gurusamy
2. G.Mangalam
3. N.Nagarajan
4. M.Balamurugan
5. P.Rajesh
6. Amuthavalli
7. M.Vellaiammal
8. R.Sivasamy
9. S.Pradeepa (Exonerated) ... Respondents / Defendants

This Petition coming on 12.10.2022 before me for final hearing in the presence of Counsel Thiru.A.C.Namburaj, Advocate for the Petitioners /Plaintiffs and Thiru.S.Madhavan Advocate for the Respondents No.1 to 4, 6 and 7 / Defendants and Thiru.M.Ponnambalam Advocate for the 5th Respondent / 5th Defendant and Thiru.P.Pradeep Advocate for the 8th Respondent / 8th Defendant and upon perusing the Petition, counter and the entire materials available on the records before this Court and having stood over for consideration till this day, this Court delivers the following

ORDER

This petition has been filed Under Order 26 Rule 9 r/w 151 of C.P.C to appoint an Advocate Commissioner to inspect the suit property with the help of Surveyor.

2) THE POINT FOR DETERMINATION:

Whether this Petition has to be allowed or not?

3) ARGUMENTS:

3.1 The learned Counsel for the Petitioners/ Plaintiffs argued that the nature of the suit property is Punja land and they are raising commercial crops during the rainfall but the Respondents have contended that the suit property has been converted into housing plots even before 30 years and therefore, to identify the exact nature of the suit property, an Advocate Commissioner should be appointed to note down the physical features with the help of surveyor and prayed for allowing this application.

3.2 On the other hand, the learned counsels for the Respondents / Defendants resisted the plea of the Petitioner vehemently and argued that this petition has been filed at the stage of Defendants side evidence and commissioner cannot be appointed at this stage and this petition has been filed to cause delay in the proceedings and prayed for dismissal.

4) On perusal of the entire case records, it could be seen that the plaintiffs side contend that the nature of the suit property is Punja land and the same has been resisted by the other side vehemently stating that the nature of the suit property is housing plots. Therefore, appointing an Advocate commissioner would be helpful for this court to identify the nature of the suit property.

5) Though, it was contended that the application has been filed in the later stage, this court is opinion that appointing an Advocate commissioner and finding out the nature of the suit property would be very much helpful to find the real dispute between the parties and to decide the case on merits and therefore, this court is inclined to appoint an advocate commissioner irrespective of the stage of the suit.

RESULT

As a result, this Petition is allowed and Advocate Mr.B.Sivasankar is appointed as Advocate Commissioner and he shall inspect the suit property with the help of surveyor and note down the physical features of the suit property and shall submit a report and plan with photographs as early as possible and Rs.7000/- is fixed as remuneration for the above said purpose and the same shall be paid by the petitioners side to the advocate commissioner directly. Commissioner report and plan by 01.12.2022.

Dictated by me to the Steno-typist directly in the office computer and the same was corrected by me and pronounced in the open Court on this 2nd day of November 2022.

(Sd. C.Dineshkumar)

Principal District Munsif
Thirumangalam

I.A.No.373/2021
in
O.S.No.77/2014
Fair-Order
02.11.2022.