

IN THE COURT OF THE DISTRICT MUNSIF AUNDIPATTI**Present : Thiru. C.Rajesh BA.,BL.,****District Munsif,****Aundipatti****Monday the 4th Day of October 2021****IA.No.03/2021****in****OS.No.62/2017****CNR.NO:TNTH14001772017**

1. S.Sumathi

2. S.Kumaran

(Represented by power Agent Gopal)

- Petitioners/Plaintiffs

Vs

Pavunammal

-Respondent/Defendant

This petition came up for final hearing before me on 27.09.2021 in the presence of Thiru.P.Subramani Advocate for the Petitioners/Plaintiffs and Advocate Thiru.S.Selvaraj for the Respondent/Defendant and upon hearing both side counsels and on perusal of the case records and stood over for consideration till this day this court hereby delivered the following:-

ORDER

This petition has been filed by the petitioners/plaintiffs for appointment of Advocate Commissioner to measure the suit property.

The Petition Averments in Brief:-

1. The suit has been filed for the relief of declaration, recovery of possession and permanent injunction. The defendant's husband Karuppathevar without having any right in the suit property he encroached the entire suit property. He also completed the construction pendent lite. So it is necessary to appoint an advocate commissioner to establish the fact that the defendant has encroached the suit property and also to identify the suit property. Hence they pray to appointment of advocate commissioner.

The Precie of the Counter Statement:-

2. This petition is not maintainable. The petitioner filed this petition by suppressing material facts. There is no connection between the suit property and the property purchased by Karuppathevar on 01.03.2010. The boundaries are different. So commission may appointed to measure the properties by correlating the sale deeds dated 10.06.2003 and 01.03.2010.

3. No oral and documentary evidence adduced either side.

4. Now the point for determination is whether Advocate Commission to be appointed or not?

5. The suit has been filed for the relief of declaration, recovery of possession and permanent injunction. The main issue between the parties is whether the Karuppathevar encroached the suit property or not? The petitioners side stated that the encroachment of defendant can be established only through the advocate commissioner. Whereas the respondent side said no objection for appointment of commission, but the commissioner is directed measure the properties by correlating the sale deeds dated 10.06.2003 and 01.03.2010. On considering both side submissions this court is of the view that commission can be appointed in this case for measure the properties by correlating the documents.

In Result,

Accordingly, Advocate Mr.V.K.Jeyakumar is appointed as advocate commissioner, he is directed to issue notice to both parties, and inspect the suit property note down the physical features and measure the same with the help of VAO and qualified surveyor and also correlate the documents produced either side and to file a detailed report with plan. The remuneration of the commissioner is fixed as Rs.5,000/-. The petitioner is directed to pay the commissioner fee directly to the commissioner. For report and plan 08.11.2021.

Dictated directly to steno-typist directly typed by her in the computer corrected and pronounced by me in the open court today Monday the 04th day of October 2021.

(sd)C.Rajesh
District Munsif,
Aundipatti.

Petitioners Side Witness:- Nil

Petitioners Side Documents:- Nil

Respondent Side Witness:- Nil

Respondent Side Documents:- Nil

(sd)C.Rajesh
District Munsif,
Aundipatti.

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