



C.R.P(MD).No.916 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.916 of 2023

and

CMP(MD)No.4220 of 2023

Manoharan

... Petitioner/Petitioner/1st Defendant

Vs.

1.Keerthi Gurunathan

2.Purushothaman

3.Vikramathithan

4.Munirathnam

5.Ashwath

6.The Tahsildar,
Revenue Department,
Tahsildar Office,
Uthamapalayam Town,
Uthamapalayam Taluk,
Theni District.

7.The Revenue Divisional Officer,
Revenue Divisional Officer,
Uthamapalayam Town & Taluk,
Theni District.

8.The District Collector,
Collectorate Campur,
Theni District.

..... Respondents/Respondents/
Plaintiffs and 2 to 6 Defendants



C.R.P(MD).No.916 of 2023

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to reverse and set aside the order in I.A.No.256 of 2020 in O.S.No.279 of 2018 on the file of Subordinate Court, Uthamapalayam, dated 27.09.2021.

For petitioner : Mr.S.Ramesh

For R6 to R8 : Mr.M.Sidharthan

Additional Government Pleader

ORDER

This petition has been filed to reverse and set aside the order in I.A.No. 256 of 2020 in O.S.No.279 of 2018 on the file of the Subordinate Court, Uthamapalayam, dated 27.09.2021.

2. The petitioner is the first defendant before the Sub Court, Uthamapalayam in O.S.No.279 of 2018 filed by the respondents 1 to 3 herein. The suit has been filed for a permanent injunction to restrain the petitioner from peaceful possession and enjoyment of the property.

3.In the said proceedings, the petitioner has filed I.A.No.226 of 2020 under Order XXVI Rule 9 of CPC for appointment of an Advocate Commissioner to give a report.

4.According to the petitioner, he has made several improvements and he is in possession of the property and therefore it is just necessary for appointing an Advocate Commissioner to give a report.



C.R.P(MD).No.916 of 2023

5.Relevant portion of the impugned order reads as under:-

'13.இருதரப்பு வாதங்களை பரிசீலிக்கையில், மனுதாரர்/1ம் பிரதிவாதி தரப்பில் தாவா 1வது லக்க சொத்தும், அதற்கு வடக்குப் பக்கம் உள்ள 1ம் பிரதிவாதியின் சொத்தும் இணைந்து விவசாயம் செய்யப்படுகிறது என்பதையும், தண்ணீர் எங்கிருந்து கொண்டு வரப்படுகிறது என்பதையும் நிரூபிக்க வேண்டி தாக்கல் செய்துள்ள இம்மனுவிற்கு எவ்வித முகாந்திரமும் இல்லை என்று இந்நீதிமன்றம் கருதி, இம்மனுவை தள்ளுபடி செய்து உத்தரவிடுகிறது."

6.In my view, there is no merits in the application filed by the petitioner for appointing an Advocate Commissioner under Order XXVI Rule 29 of CPC and it cannot be utilised for collecting evidence. The suit is only for a permanent injunction to restrain the petitioner from peaceful possession. By appointing an Advocate Commissioner, the petitioner has attempted to merely collect evidence to establish the possession over the subject property. The Court has rightly rejected the impugned order and therefore, it does not call for any interference.

7.Since there is no merits in the present Petition, this Civil Revision Petition is liable to be dismissed. It stands accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

05.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss



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C.R.P(MD).No.916 of 2023

C.SARAVANAN,J.

dss

To

1.The Subordinate Court,
Uthamapalayam.

2.The Record Keeper,
V.R Section,
Madurai Bench of Madras High Court, Madurai.

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