

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

**C.R.P.(P.D.) No.2797 of 2016 and**  
**CMP.No.14249 of 2016**

M.Mohankumar

...Petitioner

Versus

Saroja

...Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 19.02.2016 passed in I.A.No.661 of 2015 in O.S.No.155 of 2015 on the file of Principal Sub-Court, Villupuram.

For Petitioner : Mr.T.Sezhian

**ORDER**

This Civil Revision Petition is directed against the order dated 19.02.2016 in I.A.No.661 of 2015, whereby and where under, the learned Principal Subordinate Judge, Villupuram appointed an Advocate Commissioner pursuant to the request made by the respondent.

2. Heard the learned counsel for the petitioner.

3. The respondent filed a suit in O.S.No.155 of 2015 before the Court below praying for a decree of declaration and delivery of possession. The suit was contested by the petitioner herein by filing written statement.

4. While so, the respondent filed an application for appointment of Advocate Commissioner in I.A.No.661 of 2015. According to the respondent, the petitioner trespassed into the property and made an attempt to destroy the physical features. The respondent, therefore, wanted an Advocate Commissioner to be appointed for the purpose of noting down the physical features.

5. The learned Trial Judge exercised his discretion and allowed the application. Feeling aggrieved, the petitioner is before this Court.

6. The suit was filed for declaration and delivery of possession. The suit being one for declaration, the identity of the property is an essential issue to be decided by the Trial Court. The respondent has taken up a contention that an attempt was made by the petitioner to trespass into the property and to alter its physical features. Such being the factual position, the learned Trial Judge was perfectly correct in appointing the Advocate Commissioner.

7. In the up shot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

**14.09.2016**

Index:Yes/No

svki

To

The Principal Sub-Court,  
Villupuram.

**K.K.SASIDHARAN, J.**

**(svki)**

**C.R.P.(PD No.2797 of 2016**

**14.09.2016**