

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.10.2016**

CORAM:

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

C.R.P.(P.D.) No.2930 of 2016

Ekambaram

... Petitioner

vs.

Settu

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 12.04.2016 passed by the District Munsif, Katpadi, Vellore in I.A.No.1117 of 2015 in O.S.No.178 of 2013.

For Petitioner : Mr.D.Rajagopal

ORDER

The petitioner filed a suit for injunction. In the said suit, the petitioner filed an application for appointment of an Advocate Commissioner to inspect the suit property. The application was dismissed by the Trial Court. The said order is under challenge in this Civil Revision Petition.

2. Learned counsel for the petitioner contended that the age of the fish in the pond has to be ascertained for deciding the issue raised in the Civil Suit and as such, the Trial Court was not correct in dismissing the application in I.A.No.1117 of 2015.

3. The suit in O.S.No.178 of 2013 was filed by the petitioner for injunction. The prayer is to restrain the respondent from interfering with the peaceful possession and enjoyment of the property.

4. There is no question of issuing Commission to ascertain the age of the fish. The intention appears to be to collect evidence. The petitioner has to plead and prove that he is entitled to a decree of injunction in relation to the suit property.

5. The Trial Court was of the view that given the relief claimed in the Civil Suit, there is no need for appointment of an Advocate Commissioner. I do not find any error or illegality in the said order warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

6. In the upshot, I dismiss the Civil Revision Petition. No costs.
Consequently, connected C.M.P.No.14923 of 2016 is closed.

20.10.2016

Index:Yes/No
aeb

To : The District Munsif, Katpadi, Vellore.

K.K.SASIDHARAN,J.

(aeb)

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