



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (PD) .No.1275 of 2016

and

C.M.P. (MD) No.6085 of 2016

Ponnusamy .. Petitioner/Petitioner/
Defendant

Vs.

Paramasivam .. Respondent/Respondent/
Plaintiff

PRAYER: Petition is filed under Article 227 of the Constitution of India, to call for the records of the learned District Munsif-cum-Judicial Magistrate, Orathanadu made in I.A.No.278 of 2015 in O.S.No.19 of 2011 and to set aside the Fair and Decreetal order dated 04.01.2016.

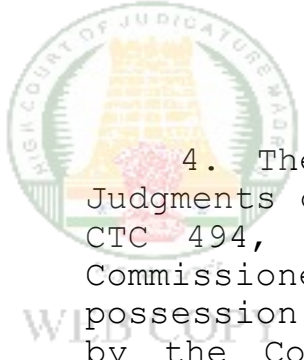
For Petitioner : Mr.S.Deenadhayan

O R D E R

The petitioner is a defendant in O.S.No.19 of 2011 on the file of the learned District Munsif cum Judicial Magistrate , Orathanadu.

2. The respondent as plaintiff filed the suit for permanent injunction. The suit is being contested by the petitioner by filing his written statement. After examination of P.W.1 in chief, he filed an application in I.A.No.278 of 2015 for appointment of an Advocate Commissioner to note down the physical features contending that the petitioner and his wife are owning property on the southern side of the suit property and they are having 7 cents in the southern side of the suit property and the respondent wrongly included the petitioner's property. The learned District Munsif dismissed the application. Aggrieved over the same, the present petition is filed.

3. Mr. Dheenadhayan, learned counsel for the petitioner would submit that the plaintiff is deliberately denying the right of the petitioner and he has included 7 cents of the petitioner's property in the suit property. Therefore unless an Advocate Commissioner is appointed to inspect the property with the help of the surveyor, the issues involved in the suit cannot be decided.



4. The Trial Court, in my view rightly, relying upon the Judgments of this Court, reported in 2006 (5) CTC 433 and 2006 (5) CTC 494, dismissed the application observing that an Advocate Commissioner cannot be appointed for local inspection where possession of the property sought to be inspected and investigated by the Commissioner is in dispute. Hence, I do not find any illegality or irregularity passed in the order impugned.

5. **In the result**, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To
The District Munsif-cum-Judicial Magistrate Court,
Orathanadu.

+1cc to Mr.S.Deenadhayalan, Advocate SR.No.33483

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