



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (PD) (MD) No.930 of 2018

G.Ganapathy Subramanian : Petitioner/Petitioner/Plaintiff

vs.

S.Kannan @ Thirugnanasambandam : Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal passed by the Principal District Munsif Court, Kumbakonam, made in I.A.No.147 of 2017 in O.S.No.51 of 2017, dated 27.01.2018.

For Petitioner : Mr.A.Saravanan

ORDER

The plaintiff in the suit in O.S.No.51 of 2017, on the file of the Principal District Munsif Court, Kumbakonam, is the revision petitioner in this petition.

2.The petitioner filed the suit for a permanent injunction against the defendant restraining from interfering with the peaceful possession and enjoyment of the suit property by the plaintiff. The suit property has been described as two items. Pending suit, the petitioner has filed a petition for appointing Advocate Commissioner to make a local inspection of the suit property and to note down physical features thereon.

3.In the affidavit filed in support of the petition, the petitioner has stated that the purpose of application is to find the plaintiff's possession and enjoyment and the extent of land in his possession. The trial Court has rightly held that the petition is not maintainable to collect evidence and the lower Court has also satisfied that the purpose of petition is only to collect evidence, which is not permissible in law. In the petition filed before the lower Court, the petitioner has not even stated any thing about the nature of dispute that the respondent may have in connection with the suit property. The petitioner has also stated



that the appointment of Advocate Commissioner is to prove the plaintiff's possession and enjoyment. It is to be noted that the application is filed even before the filing of written statement.

4. It is well settled law that a Commissioner cannot be appointed to inspect the property to find out one's possession. However, in this case, except the purpose as stated above, the petitioner has not given any reason for appointing Advocate Commissioner to note down the physical features. In the above circumstances, this Court is not inclined to entertain this revision petition.

5. Accordingly, the revision petition is dismissed. However, there is no order as to costs.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Munsif Judge, Kumbakonam.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 cc TO Mr.A.Saravanan , Advocate in SR No. 63235

cmr

AE/SV MMS/SAR2/16.05.2018/2P/5C

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