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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2018

CORAM:

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN**

C.R.P.(PD)(MD).No.2212 of 2017

and

C.M.P.(MD).No.10848 of 2017

Veerappan

... Petitioner/ Petitioner/Defendant  
-vs-

Malaichamy

... Respondent/Respondent/Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 03.10.2017 made in I.A.No.207 of 2017 in O.S.No.96 of 2015 on the file of the District Munsif Court, Vadipatti.

For Petitioners

: Mr.PT.S.Narendravasan

For Respondent

: Mr.T.C.S.Thillainayagam

### ORDER

The revision petitioner is the defendant in O.S.No.96 of 2015 on the file of the District Munsif Court, Vadipatti. It is a suit between brothers. The suit is for permanent injunction. The suit property is comprised in resurvey No.211/5 of Vadipatti Village. In the said suit filed by the respondent herein, the revision petitioner took out I.A.No.207 of 2017 for appointment of an Advocate Commissioner. The said I.A was dismissed by the court below by order dated 03.10.2017. Correctness of the said order is questioned in this Civil Revision Petition.

2.Heard the learned counsel appearing on either side.

3.The learned counsel appearing for the revision petitioner contends that the plaintiff had purchased the property only in Sy.No.211/5, but he had committed encroachments and built in a portion of Sy.No.211/6 also. In order to establish the same, he had taken out this application.

4.This Court notes that it is not the revision petitioner, who has filed the suit in question, but the respondent, who had instituted O.S.No.96 of 2015. The suit property is situated only in Sy.No.211/5, therefore what the respondent is said to have committed in respect of Sy.No.211/6 may not be of any relevance whatsoever. Therefore, the court below rightly dismissed I.A.No.207 of 2017.

<https://hcservices.ecourts.gov.in/hcservices/>

5.Concurring with the reasons set out by the court below, this Court dismisses this Civil Revision Petition. The trial court



shall decide the suit independently based on the outcome of these proceedings. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

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Sub Assistant Registrar(CS-I)

To

The District Munsif,  
Vadipatti.

Copy to

The Record Keeper, (2 copies)  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to Mr.T.C.S.Thillainayagam, Advocate Sr.No.77814

VS

VB/KAK/SAR1/03/09/2018/2P/5C

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