



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.08.2018
CORAM
THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.1234 of 2018
and
C.M.P. (MD) .No.5239 of 2018

Mariappan .. Petitioner/Petitioner/Plaintiff
Vs.

Ramar .. Respondent/Petitioner/Defendant

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.02.2018 passed in I.A.No.5 of 2018 in O.S.No.2 of 2018 on the file of the learned District Munsif-cum-Judicial Magistrate, Sivagiri, Tirunelveli District.

For Petitioner : Mr.M.Joseph Thatheus Jerome
for M/s.S.Alagusundar
For Respondent : Mr.M.S.Jeyakarthick

ORDER

The revision petitioner is the plaintiff in O.S.NO.2 of 2018 on the file of the District Munsif-cum-Judicial Magistrate Court, Sivagiri. It is a suit for declaration, permanent injunction and mandatory injunction. The revision petitioner filed I.A.No.5 of 2018 for appointment of an Advocate Commissioner. The court below dismissed the petition by order dated 21.02.2018. Aggrieved against the same, this Civil Revision Petition has been filed.

2. The respondent herein in his counter had questioned the very existence of the schedule 'B' of the property. Since the very existence of the schedule 'B' is questioned, this Court is of the view that the Advocate Commissioner ought to be appointed to locate the property. This would not amount to gathering of evidence.

3. In such view of the matter, the order impugned in this Civil Revision Petition is set aside. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected 5239 of 2018 is closed.

Sd/-
Assistant Registrar (W)

/True Copy/



To

1.The District Munsif-cum-Judicial Magistrate,
Sivagiri, Tirunelveli District.

2.The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (**2 copies**)

+1CC to Mr.M.S.Jeyakarthick, Advocate, SR.No. 79914

+1CC to Mr.S.Alagusundar, Advocate, SR.No. 79916

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CM

ES/RP/SAR 3/07.09.2018/2P/6C