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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.09.2018**

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.2086 of 2018

and

C.M.P. (MD) No.9232 of 2018

Sirantha Kavudaiyar

... Petitioner

Vs.

1.Nambi Velalar

2.Sankaralingam

3.Arumuga Nainar

... Respondents

PRAYER : Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.501 of 2018 in O.S.No.200 of 2012 dated 11.07.2018 on the file of the Sub Court, Valliyoor by allowing this Civil Revision Petition.

For petitioner: Mr.H.Arumugam

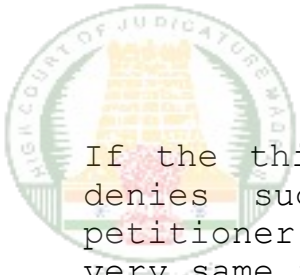
ORDER

The plaintiff in O.S.No.200 of 2012 on the file of the Sub Court, Vallioor is the revision petitioner herein. He filed I.A.No.501 of 2018 for appointing an advocate commissioner. The Court below took the view that since there is no dispute regarding the identity of the property, advocate commissioner need not be appointed. This order is questioned in this Civil Revision Petition.

2.The learned counsel for the revision petitioner pointed out that his case is that the settlement deed which is the subject matter of the suit was acted upon by the third defendant also. He wanted to establish the fact that the third defendant has constructed a building over the property in question. Since, the said building was constructed without any planning approval and not assessed to property tax, the only course open to him to establish the said fact of construction is by requesting an advocate commissioner to be appointed to inspect the property.

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

3.This Court makes it clear that this aspect can be very well brought out by properly cross examining the third defendant.



If the third defendant does not enter the witness box or if he denies suggestion put by the plaintiff in this regard, the petitioner will be at liberty to file a fresh application for the very same relief.

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4. With this liberty and observations, the order of the Court below is affirmed and this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (Crl-Side)

// True Copy //

Sub Assistant Registrar (CS-III)

To

1. Subordinate Judge,
Vallioor.

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

+ 1 CC TO MR. H. ARUMUGAM, ADVOCATE IN SR NO. 87084

PNN

BU/RSK/SAR-III:29.10.2018 : 2P/5C

ORDER MADE IN
C.R.P. (PD) (MD) .No.2086 of 2018
and
C.M.P. (MD) No.9232 of 2018
25.09.2018