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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

C.R.P. (PD) (MD) .No.1155 of 2011
and M.P. (MD) .No.1 of 2011

Rosammal

... Petitioner/Respondent/Plaintiff

Vs.

Velappan Pillai

... Respondent/Petitioner/Defendant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order and decreetal order passed in I.A.No.881 of 2010 in O.S.No.126 of 2010, dated 04.02.2011 on the file of the Additional District Munsif Court, Padmanabhapuram.

For Petitioner : Mr.Ananth C.Rajesh
For Respondent : Mr.K.N.Thambi

ORDER

This civil revision petition is directed against the order passed by the lower Court in the interlocutory application filed by the respondent in the civil revision petition in I.A.No.881 of 2010 in O.S.No.126 of 2010.

2.The brief facts that are necessary for the disposal of this revision petition are as follows:

The revision petitioner filed the suit in O.S.No.126 of 2010 on the file of the Additional District Munsif Court, Padmanabhapuram for bare injunction. The suit property is an extent of 23 cents in R.S.No.C-6/73 in Kalkulam Village. After filing the written statement, the defendant took out an application in I.A.No.881 of 2010, for appointment of an Advocate Commissioner to note down the physical features, particularly, to point out the removal of stone pillars and barbed wire fence put up by the defendant in the suit property. Though the application was contested by the plaintiff, the lower Court allowed the application.

3.It is admitted that the commissioner has now inspected the property and filed a detailed report. It is in the said circumstances, learned counsel for the revision petitioner does not dispute the factual aspects narrated above and the commissioner was appointed only to note down the changes / damages caused by the revision petitioner just after filing suit and filing of written statement. The appointment of advocate commissioner is only to ascertain the physical features. By noting down the physical features, the commissioner only reflect the physical features on



ground as it exists at the time of inspection. No prejudice is likely to be caused to any one as the person who has raised specific allegations about the damages has to prove his case. The commissioner's report of course may throw some light on certain aspects.

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4. Having regard to the fact that the commissioner has already visited and report has been filed, this Court is not inclined to interfere with the order of the lower Court as the order of the lower Court does not suffer from irregularity or illegality. It is open to the petitioner to file objections to the commissioner's report and proceed with the trial.

5. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Additional District Munsif,
Padmanabhapuram.
2. The Section Officer,
V.R. Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr. K.N. THAMBI, Advocate (SR-82248[F] dated 19/08/2019)
+1 CC to Mr. ANANTH C. RAJESH, Advocate (SR-82333[F] dated
20/08/2019)

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