

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 3625 of 2018

and

C.M.P.No. 20232 of 2018

M.Arthanarisami

...Petitioner

Vs.

1.Ponnusamy

2.S.Rajan

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order dated 06.09.2018 made in I.A.No. 415 of 2017 in O.S.No. 215 of 2013 on the file of the Principal District Munsif Court, Tiruchengode.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.S.Sundaravadhanan

ORDER

The defendant in O.S.No. 215 of 2013 has come up on revision challenging the order rejecting his application for appointment of Commissioner for the purpose of noting down the physical features of the property.

2. The suit is one for bare injunction laid by the plaintiffs to restrain the defendant from interfering with their peaceful possession and enjoyment of the property, therefore, it is for the plaintiffs to prove possession on the date of filing of the suit. The defendant in the suit for permanent injunction can keep quiet and require the plaintiff to establish possession on the date of the suit. It has been repeatedly held that appointment of Commissioner in a suit for bare injunction is not permissible, that too at the instance of the defendant.

3. I am therefore, of the considered opinion that the Trial Court was right in dismissing the application for appointment of Commissioner where the defendant seeks to procure evidence to prove possession. This civil revision petition therefore fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

09.12.2020

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Internet: Yes/No
Index: Yes/No
Speaking / Non-speaking.

R.SUBRAMANIAN, J.

KKN

To:

The Principal District Munsif Court,
Tiruchengode.



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