

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.3189 of 2016
and C.M.P.No.16215 of 2016

A.Parameswaran ...Petitioner

Vs

S.Valliappan @ Valliannan ...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India as against the order passed in I.A.No.373 of 2016 in O.S.No.105 of 2016 dated 14.03.2016 on the file of the Principal District Munsif of Bhavani.

For Petitioner : Mr.V.S.Kesavan

For Respondent : Mr.J.Prithivi

सत्यमेव जयते

ORDER

The Civil Revision Petition is arising out of the fair and decretal order passed in I.A.No.373 of 2016 in O.S.No.105 of 2016 dated 14.03.2016 on the file of the Principal District Munsif of Bhavani, thereby dismissing the petition filed by the petitioner herein for appointment of

Advocate Commissioner.

2.The petitioner is the plaintiff, he filed the suit for permanent injunction as against the respondent herein. While pending the suit, he filed a petition for appointment of Advocate Commissioner to note down the physical features in and around the B schedule property. Further, the petition in I.A.No.373 of 2016, for appointment of Advocate Commissioner was filed to restrain the respondent from obliterating or obstructing the petitioner using B schedule property and the same was dismissed by the Court below by an order dated 14.03.2016.

3.Aggrieved by the same, the present Civil Revision Petition has been preferred.

4.On perusal of the counter filed by the respondent herein, revealed that he admitted the existence of the Cart track situated in the B schedule property and in fact he also admitted that he also using the same Cart track and therefore, there is absolutely no necessary for him to obliterate the Cart track by way of filing a petition to appoint Advocate Commissioner. Further, in the suit for permanent injunction, appointment of Advocate Commissioner cannot be entertained, since it amounts to

collection of evidence.

5. Therefore, this Court finds no irregularity or infirmity in the order of the trial Court made in I.A.No.373 of 2016 in O.S.No.105 of 2016 dated 14.03.2016. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

27.01.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The Principal District Munsif of Bhavani.



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G.K.ILANTHIRAIYAN.J,

C.R.P.(P.D).No.3189 of 2016

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