



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**C.R.P. (MD)No.220 of 2021
and C.M.P. (MD)No.1330 of 2021**

M.C.S.C.Ganesan

... Petitioner

Vs.

M.C.C.A.Chokkalingam

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.382 of 2019 in O.S.No.423 of 2012 passed by the Additional District Munsif Court, Thirumangalam.

For Petitioner : Mr.S.Prabhu

ORDER

This civil revision petition has been filed to set aside the fair and decreetal order made in I.A.No.382 of 2019 in O.S.No.423 of 2012 passed by the Additional District Munsif Court, Thirumangalam.

2.The facts of the case is that the petitioner herein is the plaintiff and he has filed a suit in O.S.No.423 of 2012 for permanent injunction restraining the respondent herein to interfere in the peaceful possession and enjoyment of the suit property. During pendency of the suit, the petitioner filed an interlocutory application seeking for appointment of an Advocate Commissioner to measure the suit property with the help of the Surveyor and the Village Administrative Officer and file a report. The Court below dismissed the said application. Aggrieved over the same, the present petition has been filed.

3.The learned counsel appearing for the petitioner would submit that the lower Court failed to consider that the appointment of an Advocate Commissioner to note down the physical features of the suit property and not for the purpose of finding



out who is in possession of the property.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Admittedly, the suit itself has been filed for permanent injunction. After completion of evidence, when the suit has been posted for further evidence, the petitioner came forward with the present application and the learned Judge dismissed the application stating that the suit is for permanent injunction and the possession and the physical features of the property have to be proved by the petitioner by adducing documents and appointment an Advocate Commissioner is not necessary for the same. In a suit for injunction, Advocate Commissioner cannot be appointed. The law is well settled. The learned Judge has rightly dismissed the application and I do not find any infirmity in the order of the Court below and interference of this Court is not warranted. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Additional District Munsif Court,
Thirumangalam.

+1 CC to M/s.S.PRABHU, Advocate (SR-6623[F] dated 23/02/2021)

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KVN (CO)
AS(12.05.2021) 2P 3C