



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.07.2021

PRONOUNCED ON : 19.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(MD)No.1478 of 2014

MP(MD)No.1 of 2014

(Through Video Conferencing)

WEB COPY

C.Rajan ..Petitioner/Respondent/Defendant
Vs
Thomas ..Respondent/Petitioner/Plaintiff

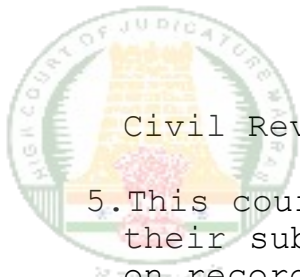
Prayer:- This Civil Revision Petition has been filed, under Article 227 of the constitution of India against the order and decreetal order dated 13.02.2014, passed in IA.No.153 of 2013 in OS.No.25 of 2013, by the Subordinate Judge, Kuzhithurai.

For Petitioner : Mr.J.John Jayakumar

For Respondent : Mr.A.Balakrishnan

ORDER

- 1.This Civil Revision Petition has been filed, against the order and decreetal order dated 13.02.2014, passed in IA.No.153 of 2013 in OS.No.25 of 2013, by the Subordinate Judge, Kuzhithurai.
- 2.The facts of the case, in a nutshell, are that the Defendant is the Petitioner and the Plaintiff is the Respondent. The suit was filed for declaration of title and for permanent injunction and for a decree to set aside the sale deed in question. In the suit, the Plaintiff had filed the above application for issuance of a commission to do the works sought for in the petition. Since the said application was allowed by the impugned order, this Civil Revision Petition has been filed.
- 3.The learned counsel for the Petitioner has submitted that when there is no dispute with regard to the identity or physical features of the suit properties and when the physical features of the properties are not necessary for adjudication of the dispute involved in the suit and when the title and possession of the suit properties can be decided by valid evidence, the impugned order, ordering commission, is not sustainable and hence, it is liable to be set aside.
- 4.The learned counsel for the Respondent has submitted that in order to note the unlawful actions carried by the Defendant by force in the property, appointment of commission is necessary and hence, the impugned order was rightly passed by the court below and this



Civil Revision Petition is liable to be dismissed.

5.This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6.The suit was filed for declaration of title and for permanent injunction and for a decree to set aside the sale deed in question. The Plaintiff had filed the above application to appoint an Advocate Commissioner, to draw a plan of the suit property and to note down the constructions in the suit property. Considering the facts and circumstances of the case and the facts that in order to decide the issues, appointment of an Advocate Commissioner is necessary and that by appointment of an Advocate Commissioner for such works, no prejudice would be caused to the other side, the court below had rightly allowed the application, by the impugned order, which does not suffer from any irregularity or infirmity.

7.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (A.D-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Srcm

To

1.The Subordinate Judge, Kuzhithurai

+1 CC to M/s.K.P.NARAYANAKUMAR, Advocate (SR-23403[F] dated 22/07/2021)

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RD(30.07.2021) 2P 3C