



C.R.P(PD)No.889 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(PD)No.889 of 2022
& C.M.P.No.4508 of 2022

Manickam
S/o.Kuppusamy

... Petitioner

Vs.

Sekar
S/o.Subramaniam

... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the fair and decretal order of the District Munsif Court at Mettur, dated 19.11.2021 in I.A.No.03 of 2021 in O.S.No.244 of 2014.

For Petitioner : Mr.P.Valliappan

ORDER

The plaintiff in O.S.No.244 of 2021 is before this Court in this revision challenging an order in I.A.No.3 of 2021, wherein the trial Court has appointed a commission for local inspection. The said application was taken out by the 1st defendant.



2.On perusing the order, this Court finds there is some dispute of the existence of the pathway and it is noted that a commission is appeared to have been appointed by the trial Court.

3.Learned counsel for the revision petitioner / plaintiff argued that this application was filed at a belated stage, after the completion of evidence of plaintiff who was examined as P.W.1 and that this application is filed to collect evidence.

4.Though, there is some merits in the submissions of the learned counsel, this Court is not entirely in agreement with his argument that the commission application is filed only to gather evidence. After all, the points sought to be noted is to the availability of certain pathway. The commission at the best is only going to make a report about the existence or non-existence of a pathway and any other attending physical features. This is a fact available on lie and therefore it may not injure the rights of the parties, more so the right of the plaintiff. Therefore, this Court does not intend to interfere with the orders of the trial Court. The plaintiff is however is at liberty to give any list of points which may he require the Commissioner to note before the trial Court and the



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trial Court may apply its mind to the same and direct the commission accordingly.

5.Subject to what is herein stated, the Civil Revision Petition stands dismissed at the admission stage itself. Consequently, the connected C.M.P.No.4508 of 2022 is also dismissed. No costs.

24.03.2022

dk/kas

Index: yes / no

Internet : yes / no

Speaking / Non speaking

To

The District Munsif Court,
Mettur



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N.SESHASAYEE, J.,

kas/dk

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