



CRP.No.3933 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3933 of 2022
and
CMP.No.20526 of 2022

Tamilarasi

... Petitioner

Vs.

1.Murugan

2.The Tahsildar
Omalur
Omalur Town & Taluk
Salem District.

3.The District Collector
Collectorate
Salem.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order dated 30.09.2022



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passed by the learned District Munsif Court, Omalur, Salem District, in I.A.(SR).No.4476 of 2022 in O.S.No.361 of 2022.

For Petitioner : Mr.S.Silambuselvan

For Respondent : Dr.S.Suriya for R2 & R3
Additional Government Pleader

ORDER

This Civil Revision Petition is filed, challenging the order passed by the Court below in dismissing the application filed by the petitioner seeking an appointment of Advocate Commissioner to note down the physical features of the suit property.

2. The petitioner herein filed a suit for declaration that the settlement deed executed by the first respondent's wife and daughter of the petitioner namely Chitra, in favour of the first respondent dated 11.04.2012 was null and void and for consequential injunction restraining the first respondent from interfering with the petitioner's



alleged possession and enjoyment of the suit property.

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3. It is seen from the order impugned in this revision that the trial in the suit has already commenced and the petitioner/plaintiff side evidence is over and the suit is now posted for recording evidence on behalf of the defendants. At this stage, the petitioner has filed an application seeking appointment of Advocate Commissioner to note down the physical features of the suit property.

4. In the affidavit filed in support of this application, the petitioner had stated that in the written statement filed by the first respondent he had stated that he had put up a building in the suit property and he had been living there along with his wife namely, Chitra. According to the petitioner, the petitioner had put up a superstructure in the suit property and stored old articles in the said superstructure.



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5. The suit is for declaration and for consequential injunction. To decide the validity of the document and also to decide the legal possession of the petitioner, the application filed for appointment of Advocate Commissioner to note down the physical features is not at all necessary.

6. The legal possession of the petitioner has to be proved by him through oral and documentary evidence and he cannot seek an appointment of an Advocate Commissioner to prove his legal possession. Therefore, the appointment of Advocate Commissioner to note down the physical features is not at all necessary. Having regard to the nature of prayer sought for in the suit, the petition for appointment of Advocate Commissioner deserve to be dismissed.

7. Accordingly, this Civil Revision Petition is dismissed. No



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costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
dna

To

1.The District Munsif Court, Omalur, Salem District.

2.The Tahsildar
Omalur
Omalur Town & Taluk
Salem District.

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S.SOUNTCHAR, J.

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