



C.R.P.No.4276 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4276 of 2022

and

C.M.P.No.22453 of 2022

Mr.Lakshmanan

... Petitioner

Vs.

MN Trust,
Rep.by its Managing Trustee,
Denali Village, Sogathorai Post,
Coonoor, The Nilgiris.

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.03 of 2022 in O.S.No.2 of 2022 dated 22.09.2022 by the Learned District Munsif at Coonoor, The Nilgiris.

For Petitioner : Mr.J.Franklin



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ORDER

The Civil Revision Petition has been filed challenging the order dated 22.09.2022, passed in I.A.No.03 of 2022 in O.S.No.2 of 2022.

2. The revision petitioner is the plaintiff who instituted the suit for permanent injunction, mandatory injunction and possession of the encroached area by the respondent herein.

3. The revision petitioner who instituted the suit has to establish his case through the documents and evidence. After the institution of the suit, the plaintiff cannot file an Interlocutory Application for appointment of the Commissioner in order to inspect the suit schedule property for the purpose of establishing the extent of encroachment. Such a cross of action would lead to collection to further evidence and thus, this Court is of an opinion that the parties instituting a suit must establish their case independently and an Advocate Commissioner is to be appointed only if the Court deems it fit for the purpose of certain required clarification or otherwise.



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4. In the present case, the Trial Court found that the Interlocutory Application was filed in order to collect additional evidence to substantiate the case by the plaintiff. That being the finding of the Trial Court, this Court does not find any infirmity in respect of the order passed in the Interlocutory Application.

5. Accordingly, the present Civil Revision Petition stands **dismissed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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23.12.2022

Index: Yes
Internet: Yes
Speaking Order

To

1. District Munsif at Coonoor, the Nilgiris.

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S.M.SUBRAMANIAM.J.,

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