



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2022

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE S. ANANTHI

C.R.P(MD).No.1406 of 2021 and
CMP(MD).No.7910 of 2021

Jegadeesan : Petitioner / 7th Defendant
Vs.

C. Chellamuthu : Respondent / Plaintiff

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order in I.A.No.381 of 2019 in O.S.No.92 of 2013, dated 16.02.2021 on the file of the District Munsif Cum Judicial Magistrate, Aranthangi.

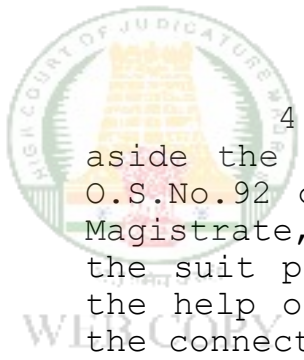
For petitioner : Mr. N. Balakrishnan
For Respondent : Mr. R. Rajmohan

ORDER

The revision petitioner / 7th defendant filed this revision to set aside the order, dated 16.02.2021 passed in I.A.No.381 of 2019 in O.S.No.92 of 2013, on the file of the District Munsif Cum Judicial Magistrate, Aranthangi.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The said Interlocutory Application in I.A.No. 381 of 2019 was filed by this petitioner to appoint an Advocate Commissioner to note down the physical features in the pathway "B" schedule property. The suit in O.S.No.92 of 2013 has been filed for declaration and mandatory injunction to remove the encroached portion of "B" schedule property. No measurement given for the encroachment portion and hence, it is necessary to appoint an Advocate Commissioner to assess the measurement of the encroachment alleged to have been done by the petitioner / 7th defendant. But, the trial Court dismissed the commission petition on the ground that the petitioner has admitted in the revenue records that there is no pathway. But the mandatory injunction is to remove the encroachment, the measurement is necessary.



4. Hence, the Civil Revision Petition is allowed by setting aside the order, dated 16.02.2021 passed in I.A.No.381 of 2019 in O.S.No.92 of 2013, on the file of the District Munsif Cum Judicial Magistrate, Aranthangi. The Commissioner is directed to inspect the suit property and measure the encroachment portion if any with the help of Surveyor and Revenue records. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

The District Munsif Cum Judicial Magistrate,
Aranthangi.

C.R.P(MD).No.1406 of 2021 and
CMP(MD).No.7910 of 2021
16.03.2022

RD(31.03.2022) 2P 2C