



CRP(MD)No.1663 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**CRP(MD)No.1663 of 2022**  
**and**  
**CMP(MD)No.7304 of 2022**

S.Suresh

: Petitioner

Vs.

Rev.Fr.Peter

: Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records pertaining to the fair and decreetal order dated 08.04.2022 passed by the learned 2<sup>nd</sup> Additional Sub Judge, Madurai, in I.A.No.93 of 2022 in O.S.No.1117 of 2018 and set aside the same.

For Petitioner : Mr.S.Sukumar

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### **ORDER**

This revision petition is filed as against the order passed by the learned 2<sup>nd</sup> Additional Subordinate Judge, Madurai, in I.A.No.93 of 2022 in O.S.No.1117 of 2018, dated 08.04.2022.



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2.The suit in O.S.No.1117 of 2018 was filed by the respondent / plaintiff for recovery of possession stating that the lease period has already been over and also for recovery of rent. The petitioner / defendant is running a School in the suit schedule property and he filed the interlocutory application in I.A.No.93 of 2022 for appointing an Advocate Commissioner to note down the physical features of the suit schedule property. The trial Court dismissed the said application and challenging the same, the present revision petition is filed.

3.Learned Counsel for the petitioner submitted that the trial Court, holding that there is no issue regarding the rent, has dismissed the application. In fact, there is a dispute over the actual rent payable by the petitioner to the landlord. The area leased out for the petitioner is only 2189.19 sq.ft, whereas, the respondent is claiming rent for the entire suit property, ie., 3086 sq.ft. Therefore, he has filed the interlocutory application seeking appointment of an Advocate Commissioner to note down the actual extent of area leased out to the petitioner, however, the same was dismissed by the trial Court.



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4. Heard the learned Counsel for the petitioner and perused the available records.

5. The respondent / plaintiff has filed the suit for recovery of possession of the suit schedule property, that the petitioner / defendant is occupying the premises even after the lapse of the lease period and also for recovery of rent. The suit was filed in the year 2018 and the suit is posted for the defendant side evidence. At this stage, the petitioner has filed the interlocutory application for appointment of an Advocate Commissioner to note down the physical features of the suit schedule property, claiming that he is not in occupation of 3086 sq.ft, as claimed by the plaintiff.

6. The case of the plaintiff is that the petitioner / defendant is occupying the suit schedule property beyond the period of lease. No issues were raised with regard to the extent of the property and that apart, having waited for three long years since the institution of the suit in the year 2018, the interlocutory application was filed for appointing an Advocate Commissioner to note down the property's extent. Therefore, this Court is of the opinion that filing the application at the



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**B.PUGALENDHI, J.**

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stage of defendant side evidence and after three long years, is to protract the proceedings and that the trial Court has rightly rejected the application filed by the petitioner. This Court is not inclined to interfere with the impugned order and accordingly, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

**17.08.2022**

Internet : Yes

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To

The 2<sup>nd</sup> Additional Sub Judge,  
Madurai.

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