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C.R.P (MD) No.1651 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.08.2022

CORAM:

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

C.R.P (MD) No.1651 of 2022

and

CMP (MD) No.7239 of 2022

R.Vellaisamy

Vs

... Petitioner

S.Kavitha

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 01.07.2019 made in I.A.No.1 of 2019 in O.S.No.477 of 2014 on the file of the District Munsif Court, Lalgudi.

For Petitioner : Mr.S.O.Muthiah

For Respondent : Mr.S.Arun Prasad

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order passed in I.A.No.1 of 2019 in O.S.NO.477 of 2014 dated 01.07.2019 by the learned District Munsif, Lalgudi.



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2.The petitioner is the plaintiff in O.S.No.477 of 2014. He filed the said suit for recovery of possession, mandatory injunction and for declaration. Pending the suit, the petitioner / plaintiff has also filed an application for appointment of Advocate Commissioner and the same was also ordered by the trial Court. Subsequently the Advocate Commissioner has also visited the property and filed his report.

3.The petitioner with allegations that the Advocate Commissioner has not properly identified the property and has mentioned the property wrongly as the petitioner's property belongs to the defendant and the defendant's property belongs to the petitioner, has filed an application under Order 26 Rule 10 of CPC, to strike off the Advocate Commissioner's report and to re-issue warrant to the Advocate Commissioner. The trial Court dismissed the application. Challenging the same, this civil revision petition is filed.

4.When the civil revision petition is taken up for hearing, the learned Counsel for the respondent with the



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permission of this Court submits that mistake has been committed by the Advocate Commissioner and he is not having any objection for allowing this civil revision petition, however, requested that the process shall be completed within a reasonable time.

5. In view of the above, this civil revision petition is disposed of by setting aside the impugned order. The trial Court shall re-issue warrant to a new Advocate Commissioner with a direction to him to inspect the property and file his report within a stipulated time. Since the suit is of the year 2014, the trial Court shall dispose of the suit within a period of eight months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition stands closed.

16.08.2022

dsk

To

The District Munsif,
Lalgudi.



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B.PUGALENDHI, J.

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