



C.R.P (MD) No.1750 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14.09.2022

CORAM:

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

C.R.P (MD) No.1750 of 2022

Majolini Daisy Jayarani ... Petitioner

Vs

1.Kulanthai Therasal

2.S.Iyappan

3.Tamil Selvi ... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.03.2022 passed in I.A.No.279 of 2020 in O.S.No.459 of 2012 on the file of the Principal District Munsif Court, Thanjavur by allowing this civil revision petition.

For Petitioner : Mr.V.Venkateseshan

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order dated 21.03.2022 passed by the learned Principal District Munsif, Thanjavur in I.A.No.279 of 2022.



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2.The petitioner is the third defendant in the suit in O.S.No.459 of 2022, which is filed for the relief of declaration and permanent injunction as against the petitioner and respondents 2 and 3. The petitioner was set *ex-parte* on 04.06.2013. The petitioner filed an application to set aside the *ex-parte* decree and in the meantime, the plaintiff has filed an application for amendment of the plaint and also for appointment of an advocate commissioner. The applications filed by the respondent / plaintiff were allowed and subsequently the advocate commissioner has also visited the property. The grievance of the petitioner is that when the trial Court has disposed of the applications filed by the plaintiff, the application to set aside the *ex-parte* order is still pending and he was not provided an opportunity by the advocate commissioner during her inspection. The petitioner has filed the present interlocutory application in I.A.No.279 of 2020 to strike of the report of the advocate commissioner and for re-issuance of warrant. The trial Court has rejected the said application. Challenging the same, the present civil revision petition is filed.



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3. Though the petitioner alleges that he was not given opportunity of presence during the inspection of the advocate commissioner, the advocate commissioner inspected the property and measured it with the help of the surveyor and therefore, there is no necessity for appointment of fresh advocate commissioner to visit the suit property and measure the same. It is seen that the petitioner is given liberty to examine the advocate commissioner to cull out the evidence from the advocate commissioner. Therefore this Court is not inclined to interfere with the orders of the trial Court.

4. In the result the civil revision petition is dismissed. No costs. Since the suit is of the year 2012, the trial Court shall dispose of the suit as expeditiously as possible preferably within a period of six months.

14.09.2022

dsk

To

The Principal District Munsif,
Thanjavur.

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B.PUGALENDHI, J.

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