



CRP(MD)No.2222 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2022

CORAM:

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

CRP (MD) No.2222 of 2022

and

CMP (MD) No.10413 of 2022

P.Balasubramaniyan : Petitioner

Vs.

1.P.Thillainatarajan

2.K.Narayanan

3.The Thasildar,
O/o.Thasildar,
Tiruchuli Taluk,
Virudhunagar District.

4.The District Collector,
O/o.District Collector,
Collectorate Campus,
Virudhunagar.

: Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to the fair and decreetal order dated 01.07.2022 passed by the District Munsif cum Judicial Magistrate Court, Tiruchuli, in I.A.No.1 of 2022 in O.S.No.157 of 2021 and to set aside the same.



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For Petitioner : Mr.I.Suthakaran

ORDER

The petitioner / plaintiff has filed a suit in O.S.No.157 of 2021 before the District Munsif cum Judicial Magistrate Court, Tiruchuli, for the relief of permanent injunction as against the respondents. He has also filed an interlocutory application in I.A.No.1 of 2022 under Order 26 Rule 9 CPC to appoint an Advocate Commissioner to note down the physical features of the suit schedule property. The said application was dismissed by the trial Court vide order dated 01.07.2022. Aggrieved over this order, the petitioner has moved the instant revision petition.

2.Learned Counsel for the petitioner submitted that the respondents claim that they have put up a construction in the suit schedule property in the year 200, however, it is the case of the petitioner that he



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has put up a construction in the suit schedule property as early as in the year 1998. In order to ascertain the age of the building, he has filed the interlocutory application, however, the trial Court, without appreciating the same, has dismissed the application. He has also relied upon the decision of this Court in the decision reported in **MANU/TN/3167/2021**, [**C.B.Manokaran v. P.Valli and Others**].

3.This Court considered the submissions made by the petitioner's Counsel.

4.On a perusal of the papers, it appears that the dispute between the petitioner and the respondents is with regard to the ownership of the suit schedule property. The existence of a building in the suit schedule property is not disputed by either of the party and as such, there is no necessity to appoint an Advocate Commissioner to ascertain the age of the building.

