



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.04.2022**

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P (MD)No.2498 of 2017

and

C.M.P (MD)No.11750 of 2017

Seethalakshmi

... Petitioner/

Petitioner/Defendant

Vs.

Kalpana

... Respondent/

Respondent/ Plaintiff

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India as against the fair and decreetal order, dated, 14.09.2017, passed in I.A.No.464 of 2017 in O.S.No.96 of 2017 on the file of Additional District Munsif Court, Thoothukudi.

For Petitioner : Mr.M.P.Senthil

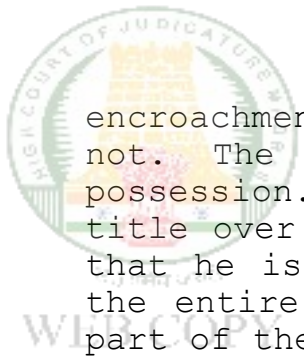
For Respondent : Mr.M.Murugan
for H.Arumugam

ORDER

The respondent herein has filed O.S.No.96 of 2017 on the file of Additional District Munsif, Thoothukudi for the relief of declaration of title and recovery of possession over the suit schedule properties. Pending the suit, the defendant has filed I.A.No.464 of 2017 for appointment of an Advocate Commissioner to note down the physical features and to measure the plaint schedule property and for filing a detailed report. This application was objected by the plaintiff.

2. The learned trial Judge arrived at a finding that the dispute between the parties relate only to the title and possession and there is no dispute with regard to the boundaries or measurements of the suit schedule properties. Based upon the said findings, the trial Court has rejected the application. As against the same, the present revision petition has been filed by the defendant.

3. The learned counsel for the petitioner has contended that since it is a suit for recovery of possession, it is necessary that a Commissioner is appointed to find out whether there is any



encroachment over the plaint schedule property by the defendant or not. The suit is for declaration of title and recovery of possession. The entire burden is upon the plaintiff to establish his title over the suit schedule properties. The plaintiff has to prove that he is entitled to recover possession from the defendant. When the entire burden is upon the plaintiff, it is unnecessary on the part of the defendant to file such applications. The trial Court has rightly dismissed the said application.

4. I do not find any merits in the revision petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Additional District Munsif,
Thoothukudi.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.H. ARUMUGAM, Advocate (SR-17867[F] dated 11/04/2022)

+1 CC to M/s.M.P. SENTHIL, Advocate (SR-17672[F] dated 11/04/2022)

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