



WEB COPY



CRP.No. 392 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.No. 392 of 2020

and

CMP.No. 2064 of 2020

Ravichandran

... Petitioner

Versus

Selvakumar

.. Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, prays to set aside the fair and decreetal order dated 02.12.2019 in I.A.No. 1179 of 2018 in O.S.No. 127 of 2016 on the file of Additional District Munsif Court, Ulundurpet.

For Petitioner	: Mr. R. Poornima
For Respondent	: No Appearance

ORDER

Heard the learned counsel for the revision petitioner and perused the materials placed on record.

2. On a perusal of the records, it is seen that the revision



CRP.No. 392 of 2020

WEB COPY

petitioner/plaintiff has filed the suit in O.S.No.127 of 2016 against the respondent/defendant before the Additional District Munsif Court, Ulundurpet, for declaration and permanent injunction. The defendant has contested the suit by filing written statement and denied all the averments made in the plaint. During the pendency of the suit proceedings, the revision petitioner/plaintiff filed I.A.No.1179 of 2018 under Order 26 Rule 9 of the Code of Civil Procedure, seeking for appointment of Advocate Commissioner to measure the "A" and "B" schedule properties with the help of Tahsildar, Village Administrative Officer through Revenue documents and to note down the physical features of the suit properties. After perusing the records, the Court below dismissed the application by the impugned order dated 02.12.2019. Aggrieved by the said order, the revision petitioner/plaintiff has filed the present Civil Revision Petition.

3. According to the revision petitioner/plaintiff, the plaintiff has filed the suit for declaration and permanent injunction against the defendant in respect of "B" schedule property.

4. The contention of the petitioner is that the defendant in his written



CRP.No. 392 of 2020

WEB COPY

statement had stated that the plaintiff has wrongly stated the details regarding survey number, sub-division number, and boundaries of "B" schedule property. Hence, if the aforesaid plan and Advocate Commissioner's Report are submitted before the Court below, the above details will come to light.

5. The contention of the respondent/defendant is that there are documents in respect of the suit properties and based on those documents, the true facts will be known and there is no necessity to appoint an Advocate Commissioner and hence, the above Civil Revision Petition may be dismissed.

6. It is seen that the written statement was filed by the defendants on 21.10.2016 and the defendant had stated that the sub-division number, boundaries etc., are wrongly mentioned by the plaintiff. Subsequently, it is also seen that, on 01.09.2018, issues have been framed and the matter was posted under Special List during November, 2018.

7. At this juncture, the revision petitioner/plaintiff has filed the



CRP.No. 392 of 2020

IA.No.1179 of 2018 after a long gap of two years. Hence, the above application is not maintainable. Therefore, the intention of the revision petitioner/plaintiff is only to drag on the proceedings and hence, this Court is not inclined to accept the above said reason.

8. However, this Court is of the view that the sub-division number, four boundaries, structure of the suit properties etc., are to be appropriately mentioned based on the parent documents to decide the issues in the suit proceedings. Therefore, there is no necessity to appoint an Advocate Commissioner in this case. Hence, this Court is of the view that there is no illegality or irregularity or impropriety in the impugned order passed by the Court below.

9. With the above observation, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.02.2023

msm



CRP.No. 392 of 2020

WEB COPY

- To
1. The Additional District Munsif Court, Ulundurpet.
 2. The Section Officer, High Court, Madras.



WEB COPY



CRP.No. 392 of 2020

V.BHAVANI SUBBAROYAN, J.

msm

CRP.No. 392 of 2020

20.02.2023