



WEB COPY



CRP No.1923 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.02.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P. No.1923 of 2016

and

C.M.P. No. 10026 of 2016

Venkatarama Chettiar

....

Petitioner

Vs

1. Sekar

2. Perumal

3. Kuppu

....

Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order and decreetal order dated 22.03.2016 passed in I.A.No.80 of 2016 in O.S.No.173 of 2005 on the file of the District Munsif, Attur.

For Petitioner : M/s.S.Srimathi

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed as against the order and decreetal order dated 22.03.2016 passed in I.A.No.80 of 2016 in O.S.No.173 of 2005 on the file of the District Munsif, Attur, thereby dismissing the petition seeking appointment of Advocate Commissioner.

2. The petitioner is the plaintiff and the respondents are the



defendants. The petitioner filed a suit for permanent injunction. Pending suit, the petitioner filed a petition to appoint an Advocate Commissioner in order to inspect the suit property and note down the physical features of the same. The case of the petitioner is that that while pending suit, the respondents dug up a Well in a common pathway and thereby obstructing the common pathway. Therefore, he filed a petition to appoint an Advocate Commissioner to inspect the suit property and note down the physical features of the same.

3. Admittedly, it is a suit for permanent injunction filed in the year 2005. After a period of 11 years, the petitioner came forward with a petition seeking appointment of Advocate Commissioner on the ground that the respondent dug up a Well and is obstructing the common pathway. In order to prove the same, the petitioner did not even lodge any police complaint or did not take any action in the manner known to law. Therefore, the appointment of Advocate Commissioner in a suit for permanent injunction would amount to collection of evidence and the Court below rightly dismissed the petition.

4. In view of the above, this Court finds no infirmity or



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illegality in the order dated 22.03.2016 passed in I.A.No.80 of 2016 in

O.S.No.173 of 2005 on the file of the District Munsif, Attur.

Accordingly, this Civil Revision Petition stands dismissed. The Trial Court is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

02.02.2023

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The District Munsif,
Attur.

G.K.ILANTHIRAIYAN,J.



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