



C.R.P. No.1035 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM :

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P. No.1035 of 2023
and C.M.P.No.7455 of 2023

S.Subramaniam

... Petitioner

-VS-

B.Poongodi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India as against the order passed in I.A.No.1304 of 2022 in A.S.No.23 of 2022 dated 04.03.2023 on the file of the Principal District Judge, Tiruppur.

For Petitioner : Mr.P.Mani

For Respondent : Mr.K.Myilsamy

ORDER

Challenging the order dated 04.03.2023 passed in I.A.No.1304 of 2022 in A.S.No.23 of 2022 on the file of the learned Principal District Judge,



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Tiruppur, the plaintiff filed the present revision.

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2. Originally the suit in O.S.No.308 of 2017 has been filed for a declaration that the plaintiff is the owner of the suit property and for permanent injunction. The trial court dismissed the suit, against which the plaintiff preferred an appeal in A.S.No.23 of 2022. Pending the appeal, the plaintiff filed I.A.No.1304 of 2022 for appointment of an Advocate Commissioner. The said application was dismissed, against which the present revision.

3. Learned counsel for the petitioner would submit that in order to establish the fact that the petitioner is in possession of the suit property and enjoyment of the same from the year 1996 by paying water tax, Corporation tax and electricity bills, it is necessary to appoint Advocate Commissioner to visit the suit property and the Advocate Commissioner's report would facilitate for proper adjudication of the case.

4. Learned counsel for the respondent/defendant would submit that the



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respondent is in possession and enjoyment of the property and hence, it is not necessary to appoint an Advocate Commissioner.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. Considering the fact that the appeal is pending and the plaintiff is aged 67 years, this Court is of the view that the appointment of Advocate Commissioner would not cause any prejudice to either of the parties.

7. For the foregoing reasons, the findings of the trial court is set aside and I.A.No.1304 of 2022 is ordered and the trial court is directed to appoint an Advocate Commissioner within a period of three weeks from the date of receipt of a copy of this order. Accordingly, this civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.12.2023

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Index: Yes/No
Speaking order/Non speaking order
Neutral citation : Yes/No

To
The Principal District Judge
Tiruppur.



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T.V.THAMILSELVI, J.,

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