



C.R.P.No.1860 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R.P.No.1860 of 2023

and

C.M.P.No.11923 of 2023

C.Subramaniam

. . . Petitioner

Versus

1.T.Pratheepa

2.R.P.Venkatesh

. . . Respondents

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 09.09.2022 in I.A.No.278 of 2020 in O.S.No.57 of 2020 on the file of the learned Subordinate Court, Palladam.

For Petitioner : Mr.M.Sivavarthanan

ORDER

Heard Mr.M.Sivavarthanan, learned counsel for the petitioner and perused the records.



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WEB COPY 2. This civil revision petition is filed questioning the dismissal of I.A.No.278 of 2020 in O.S.No.57 of 2020 on the file of the learned Subordinate Judge, Palladam, filed for appointment of Advocate Commissioner under Order XXVI Rule 9 of Code of Civil Procedure.

3. The petitioner has filed the suit seeking to declare that Power of Attorney deed dated 26.3.2009, sale agreement dated 26.3.2009, cancellation of sale agreement dated 25.2.2013 and registered sale deed dated 26.2.2013 are null and void and for consequential permanent injunction restraining the defendants from interfering with the peaceful possession of 'A' schedule property.

4. According to the petitioner/plaintiff, the dispute between the parties is in respect of 'A' schedule property. 'A' schedule property and 'B' schedule property are connected to each other and are in possession of the petitioner. 'A' schedule property cannot be independently enjoyed without enjoyment of 'B' schedule property.



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5. The case of the defendants is that though both 'A' schedule property and 'B' schedule property are connected to each other and that the defendants are in exclusive possession of 'A' schedule property.

6. The petitioner/plaintiff has moved an application in I.A.No.278 of 2020 seeking to appoint an Advocate Commissioner to note down the physical features of 'A' schedule property, age of the plantation in 'A' schedule property including water pipes meant for irrigation, Open Well and Bore- Wells.

7. The petitioner/plaintiff, who has admittedly purchased the schedule of property is seeking permanent injunction and other declaratory reliefs and thereby, he is expected to place before this Court evidence to prove his case. If Advocate Commissioner is appointed it amounts to recording of possession of the schedule of properties which are likely to be demonstrated that 'A' schedule property cannot be in independent enjoyment without enjoyment of 'B' schedule property.

8. Considering the circumstances, the trial Court has rightly declined to consider the request of the petitioner and this revision does not deserve any merit and therefore, there is no need to interfere with the impugned order



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passed by the trial Court. Accordingly, this Civil Revision Petition is dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

ms

To

The Subordinate Judge,
Palladam.



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DR.D.NAGARJUN, J.,
ms

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