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C.R.P. No. 2837 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2837 of 2023

and

C.M.P.No.17598 of 2023

Hariprasad

...Petitioner

.Vs.

1. Muniraj

2. Suresh

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Docket Order dated 04.12.2021 made in I.A.No.138 of 2023 in O.S.No.258 of 2023 on the file of the Court of the Subordinate Judge, Pappireddipatty, by allowing this Civil Revision petition and pass orders

For Petitioner : Mr. T. Dhanasekaran



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ORDER

This petition is filed to set aside the Docket Order dated 04.12.2021 made in I.A.No.138 of 2023 in O.S.No.258 of 2023 on the file of the Court of the Subordinate Judge, Pappireddipatty,

2. The case of the petitioner is that he has filed a suit in O.S.No.159 of 2019 on the file of the Court of the Subordinate Judge, Harur seeking (a) for a declaration declaring the suit schedule properties belonging to the petitioner (b) for a permanent injunction restraining the defendants their men and servants, agents or any persons claiming under them from interfering with plaintiffs peaceful possession and enjoyment of the suit properties and (c) for cost of the suit and (d) also grant plaintiff such further and other reliefs and when the same is pending the Respondents/Defendants have filed an application in I.A.No.1 of 2021 in O.S.No.156 of 2019 for appointment of an Advocate Commissioner to note down the physical features of the suit properties and the same was allowed vide order dated 04.12.2021. Thereafter, due to bifurcation of territorial jurisdiction the I.A.No.1 of 2021 in O.S.No.156 of 2019 was transferred to the file of the Subordinate Judge Court at Papireddypatti



and the same was re-numbered as I.A.No.138 of 2023 in O.S.No.258 of 2023. However, aggrieved over the same, the petitioner has come up with this present petition.

3. The learned counsel for the petitioner submitted that the Court below has not granted sufficient time to proceed the case. He further submitted that appointment of Advocate Commissioner is not necessary, as the same will delay the suit proceedings. He further submitted that the Court below without proper appreciation of facts has allowed the I.A.No.1 of 2021 in O.S.No.156 of 2019. Hence prays to allow this petition.

4. On a perusal of records it is seen that the learned Judge has passed the impugned order with a direction to appoint an Advocate Commissioner to note down the measurements of the subject property and no adverse orders has been passed against the petitioners. When this being the case, the petitioner has filed this present petition to set aside the impugned order, which is not legally justifiable. The Appointment of Advocate Commissioner will no way affect the proceedings of the case as the report of Advocate Commissioner will enable to arrive a correct



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decision. Therefore, there is no necessity to interfere with the impugned order passed by the Court below. However, the Advocate Commissioner is directed to measure the subject property and file a report before the Court below.

5. In view of the above, the order dated 04.12.2021 made in I.A.No.138 of 2023 in O.S.No.258 of 2023 on the file of the Court of the Subordinate Judge, Pappireddipatty is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

18.08.2023

smn

Index : Yes/No

Internet: Yes/No

To.

The Subordinate Judge, Pappireddipatty



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V.BHAVANI SUBBAROYAN,J.
Smn

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18.08.2023