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C.R.P.No.2445 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2023

CORAM

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

C.R.P.No. 2445 of 2019

and

C.M.P.No.15960 of 2019

Subramanian

.... Petitioner

Vs

1. Uma Maheswari
2. Kumar
3. Dhanapalan

4. The Sub Registrar,
Mannargudi Town,
Mannargudi Taluk,
Tiruvarur District.

5. The District Collector,
Tiruvarur Town,
Tiruvarur Taluk,
Tiruvarur District.

.... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and final order dated 21.12.2017 passed in I.A.No.515 of 2017 in O.S.No.66 of 2017 on the file of the District Munsif Court, Mannargudi.

For Petitioner	: Mr.Jawahar. B.
For R1 to R3	: No appearance
For R4 and R5	: Mr.C.Sathish
	Government Advocate



C.R.P.No.2445 of 2019

ORDER

This Civil Revision Petition has been filed to set aside the fair and final order dated 21.12.2017 passed in I.A.No.515 of 2017 in O.S.No.66 of 2017 on the file of the District Munsif Court, Mannargudi, thereby allowing the petition seeking appointment of Advocate Commissioner.

2. Though notice has been served on the respondents 1 to 3 and their name also printed in the cause list, there is no representation for the respondents 1 to 3 either in person or through counsel.

3. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed a suit for permanent injunction restraining the fourth respondent from registering any document in respect of the house belonged to the respondents 1 to 3/defendants 1 to 3 herein. Pending suit, the respondents 1 and 2 herein filed an application in I.A.No. 515 of 2017 seeking appointment of Advocate Commissioner to inspect the suit property in order to note down the physical features of the same with the help of the Surveyor and Village Administrative Officer. The said application was allowed. Aggrieved by the same, the present Civil Revision Petition.



C.R.P.No.2445 of 2019

4. Admittedly, the petitioner filed a suit for permanent injunction restraining the fourth respondent from registering any document in respect of the suit property. The petitioner is the plaintiff and he has to prove his case. Therefore, appointment of Advocate Commissioner is not at all required in the present case, since, the petitioner, being the plaintiff, has to prove his case. Therefore, the Trial Court ought not to have appointed the Advocate Commissioner.

5. In view of the above, the order dated 21.12.2017 passed in I.A.No.515 of 2017 in O.S.No.66 of 2017 on the file of the District Munsif Court, Mannargudi, is hereby set aside. Accordingly, this Civil Revision Petition stands allowed. The Trial Court is directed to complete the trial and dispose of the suit on merits and in accordance with law, 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.

28.02.2023

Index:Yes/No
Internet:Yes/No
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To
The District Munsif,
Mannargudi.



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C.R.P.No.2445 of 2019

G.K.ILANTHIRAIYAN, J.

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