



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2824 of 2023

and

C.M.P.No.17476 of 2023

Dhanapal
...Petitioner

.Vs.

1. Natarajan

2. Murugesan

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decreetal order dated 27.03.2023 made in I.A.No.06 of 2023 in O.S.No.246 of 2020 on the file of the II Additional District Munsif Court, Erode, by allowing this Civil Revision petition and pass orders.

For Petitioner : M/s R. Sashe for Mr.M. Guruprasad



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ORDER

This petition is filed to set aside the order and decretal order dated 27.03.2023 made in I.A.No.06 of 2023 in O.S.No.246 of 2020 on the file of the Court of the II Additional District Munsif Court, Erode, by allowing this Civil Revision petition

2. The case of the petitioner is that the Respondents have filed I.A.No.2 of 2020 in O.S.No.246 of 2020 for appointment of Advocate Commissioner to measure the subject property and the Advocate Commissioner also measured the subject property and submitted a report, wherein, it was noted that there is a cart track inside the subject property. Aggrieved over the said finding of the Advocate Commissioner, the petitioner has filed I.A.No.06 of 2023 in O.S.No.246 of 2020 to re-issue warrant for appointment of Advocate Commissioner to demarcate the subject property once again and the same was dismissed vide order dated 27.03.2023. Hence, this petition.



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3. The learned counsel for the petitioner submitted that the learned Judge ought to have allowed the I.A.No.06 of 2023 in O.S.No.246 of 2020 filed by the petitioner for appointing an Advocate Commissioner, as there was a error in the report already submitted by the Advocate Commissioner. Hence he prays to allow this petition.

4. On going through the impugned order it is seen that the Advocate commissioner has visited the subject property 3 times and during the first time there is no fencing in the subject property. Thereafter, the petitioners in order to hide the cart track has put a fencing in the subject property. Hence, the learned Judge has passed an dismissal order wherein it has been stated that necessity to re-issue the warrant once again for appointment of the Advocate Commissioner does not arise, which finding in the considered view of this Court cannot be brushed aside easily. Therefore, there is no necessity to interfere with the impugned order passed by the Court below.

5. In view of the above, the order passed in I.A.No.06 of 2023 in O.S.No.246 of 2020 on the file of the II Additional District Munsif Court,



Erode is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

17.08.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The II Additional District Munsif Court, Erode,



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V.BHAVANI SUBBAROYAN,J.
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