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C.R.P.(PD).No.2721 of 2019
and C.M.P.No.17943 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM : **MR.JUSTICE N.SESHASAYEE**

C.R.P.(PD).No.2721 of 2019
and C.M.P.No.17943 of 2019

Neelavathi

... Petitioner

Vs.

Balachandran

... Respondent

Prayer: Petition filed under Article 227 of Constitution of India, seeking to set aside the fair and decretal order dated 25.04.2019 made in I.A.No.342 of 2019 in O.S.No.147 of 2017 on the file of the District Munsif, Sirkali.

For Petitioner : Mr.M.V.Venkataseshan

For Respondent : Mr.P.Anbarasan

ORDER

The plaintiff in O.S.No.147 of 2017 on the file of the District Munsif Court, Sirkali is the revision petitioner herein. She has laid a suit for bare injunction seeking to protect her possession of the property comprised in S.No.220/13, situated at Vilanthidasamuthiram Village. The defendant is stated to be the adjacent owner to the west of the suit property comprised in



C.R.P.(PD).No.2721 of 2019
and C.M.P.No.17943 of 2019

S.No.220/8. According to the plaintiff, there was a ridge separating the defendant's property from the suit property and that was removed some 15 years prior to the institution of the suit by a third party. To note down the same, the plaintiff had taken out an application in I.A.No.342 of 2019 for appointing a Commission. Needless to state, it was promptly dismissed by the trial Court which is now in challenge.

2.The plaintiff / revision petitioner confines her right to S.No.220/13 and also admits that the defendant is the owner of the property in S.No.220/8. Indeed, this Court was informed that there was an earlier litigation instituted by the defendant / respondent herein for declaration of his title to property in S.No.220/8 and the same was decreed in his favour.

3.It appears neither side seems to claim title over the property of the other. Having said that this Court does not make any final statement as to the right of the plaintiff to seek injunction vis-a-vis the suit property since the plaintiff still needs to establish that she is in settled possession of the property without the support of law. If the dispute is essentially in finding



C.R.P.(PD).No.2721 of 2019
and C.M.P.No.17943 of 2019

WEB COPY

the dividing line between S.No.220/8 and S.No.220/13, it is a matter in which an official surveyor can do a better job than a Court appointed Commissioner.

4.In conclusion, this Court does not find any merit in this revision. Hence, this Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No Costs.

29.03.2023

Anu

Index : yes / no

Internet : yes / no

Speaking / non speaking

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C.R.P.(PD).No.2721 of 2019
and C.M.P.No.17943 of 2019

N.SESHASAYEE.J.,

Anu

C.R.P.(PD).No.2721 of 2019
and C.M.P.No.17943 of 2019

29.03.2023