



CRP. No. 2966 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10. 2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 2966 of 2022
& CMP No. 16029 of 2022

Deepa

...Petitioner

Vs.

1.Sonnepalliappa
2.Kondappa
3.Venkatesh
4.Muniyamma
5.Ramakka

....Respondents

PRAYER : This Civil Revision Petition is filed under Article 226 of Constitution of India, to set aside the order dated 29.06.2022 made in I.A No. 5 of 2021 in O.S No. 104 of 2020 on the file of the District Munsif-cum-Judicial Magistrate No.1, Hosur.

For Petitioner : Mr.R.Bharathkumar

For R1 : Mr.E.D.Sethupathi

For R2 & R3 : No such person



CRP. No. 2966 of 2022

For R4 and R5: No appearance

ORDER

Challenging the impugned order dated 29.06.2022 passed by the the District Munsif-cum-Judicial Magistrate No.1, Hosur, in I.A No. 5 of 2021 in O.S No. 104 of 2020, the petitioner filed this petition.

2. The first respondent herein file I.A No. 5 of 2021 in O.S No. 104 of 2020 to appoint advocate commissioner to inspect the suit property, not the lie of the property, note the newly constructed compound wall, note the usage of materials, rod, wires, stones, age of the constructed wall and file his report along with plan in the suit. After considering the submissions on either the Trial Court allowed the said petition. Challenging the same the petitioner filed this petition.

3. Heard both sides. The learned counsel for the petitioner submits that there is no dispute with regard to existence of the suit property as vacant land on bare injunction suit the appointment of advocate commissioner is not necessary and also the advocate commissioner shall not be appointed for collection of evidence that too in a suit for bare injunction but the Trial Court erroneously allowed the said petition as such is



CRP. No. 2966 of 2022

erroneous and liable to be set aside.

WEB COPY

4. On perusal of records, it reveals that the first respondent/plaintiff filed the suit for permanent injunction in respect of suit property with an extent of 3.30 acres out of 4 acres in new survey No. 61/4. As per plaint description property is only vacant land and to prove the physical feature the report of advocate commissioner is just and necessary. Hence, the findings of the Trial Court is confirmed which needs no interference. However, the learned counsel for the petitioner submitted that the new Advocate commissioner may be appointed since because the attitude of the Advocate Commissioner put hardship to the petitioner. Hence, the Trial Court is directed to appoint new Advocate commissioner in I.A No. 5 of 2021 in O.S No. 104 of 2020.

5. In result, this Civil Revision Petition is disposed of. No costs. Consequentially, Connected miscellaneous petition is closed.

06.10.2023

pbl

To

The District Munsif-cum-Judicial Magistrate No.1, Hosur



WEB COPY



CRP. No. 2966 of 2022

T.V.THAMILSELVI.J.

Pb1

CRP No. 2966 of 2022
& CMP No. 16029 of 2022

06.10.2023