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C.R.P.(PD)No.3536 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.3536 of 2019
and CMP.No.23235 of 2019

B.Azagammal

... Petitioner

VS

1.M.Sridaran
2.S.Pramila

... Respondents

Petition filed under Article 227 of the Constitution of India against the Fair and decreetal order, dated 15.06.2019 made in I.A.No.1059 of 2018 in O.S.No.47 of 2017 on the file of the Principal District Munsif Court, Thiruvattiyur.

For Petitioner : Ms.Thenmozhi Shivaperumal

For Respondents : Ms.R.Poornima

ORDER

The suit is for bare injunction. The plaintiff claims that she is in possession of the property. The defendants also claim to be in possession of the same property. As to the lie of the property and its identity, there is no dispute.

2.In a suit for injunction, the only aspect that has to be proved by



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the plaintiff is that she is in lawful possession and enjoyment of the property. By appointing an Advocate Commissioner to note down the physical features, it will indirectly lead to finding out as to who is in possession of the property. An Advocate Commissioner cannot be appointed to find out who is in possession.

3.Ms.Thenmozhi Shivaperumal would submit that she only requires the Advocate Commissioner to note down the physical features. As I have already pointed out, in a suit for injunction, if the physical features are noted and they are demarcated as to who is in possession of the property, it will indirectly lead to the Advocate Commissioner giving a finding as to who is in possession of the property.

4.An Advocate Commissioner, to reiterate, cannot be appointed for any purpose which will directly or indirectly lead to finding out who is in possession of the property. Such a relief goes beyond the scope of the suit for bare injunction.

5.Apart from that, Ms.Themozhi Shivaperumal would also submit that her clients have constructed bathrooms and a building. This will be a direct way of collecting evidence in order to substantiate her case at the time of trial. The existence of the buildings can be proved through oral and documentary evidences like building plans etc.



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6. I do not find any illegality or irregularity with the impugned order. This civil revision petition is devoid of merits and is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.08.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

vs

To

The Principal District Munsif Court,
Thiruvottiyur.



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V. LAKSHMINARAYANAN,J.

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