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C.R.P. No.3444 of 2019 &
C.M.P. No.22619 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P. No.3444 of 2019 & C.M.P. No.22619 of 2019

G.Baskar

... Petitioner

Vs.

1.M.Mahendiran

2.B.Suresh Babu

... Respondents

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 30.08.2019 passed in I.A. No.1 of 2019 in O.S. No.132 of 2017 on the file of Sub Court, Gudiyatham, Vellore District.

For Petitioner : Mr.K.Govi Ganesan

For Respondents : No Appearance



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ORDER

The respondent herein has laid a suit for specific performance in O.S. No.132 of 2017 on the file of Sub Court, Gudiyatham, Vellore District. The defendant has entered appearance and is contesting the suit. During the pendency of the suit, the defendant has taken out an application in I.A. No.1 of 2019 for appointment of a commissioner for local inspection. The reasons stated by the defendant for seeking the appointment of an Advocate Commissioner is that during the pendency of the suit, the plaintiffs have altered the character of the property by putting up some construction. The plaintiffs have denied the same. The trial court had dismissed the same on the ground that it is an effort by the defendant to collect evidence.

2. The learned counsel for the revision petitioner makes a statement that the agreement does not deal with the construction and in the back drop of it, the allegation made by the defendant gains significance.

3. Though the respondents have been served, they have not chosen to appear either in person or through counsel.



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4. Upon weighing the submissions made by the learned counsel for the petitioner and also by going through the materials available in the form of typed set of papers, this court deems it appropriate to allow the revision.

5. Accordingly, the civil revision petition is allowed. The fair and decretal order dated 30.08.2019 passed by the learned Sub Judge, Gudiyatham in I.A. No.1 of 2019 in O.S. No.132 of 2017 is set aside. The learned Subordinate Judge is now required to appoint any advocate with exposure in the civil side and is regular to the court, as an Advocate Commissioner upon such a remuneration as it may deem fit. No costs. Consequently, the connected civil miscellaneous petition is closed.

10.03.2023

Asr

To
The Subordinate Judge, Gudiyatham, Vellore District



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N.SESHASAYEE, J.,

Asr

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