



C.R.P.No.3734 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P. No.3734 of 2023

and

C.M.P.No.23295 of 2023

B. Radhakrishnan

.. Petitioner

Vs

1. S. Sagadhevan

2. R. Babu

3. The Branch Manager
Shriram City Union Finance Limited,
Thiruninravur Branch,
CTH Road, Thiruninravur - 602 024.

..Respondents

Prayer : Civil Revision Petition filed under 227 f the constitution of India to set aside the Fair order and decreetal order dated 11.08.2023 made in I.A.No. 4 of 2023 in O.S.No.30 of 2022 on the file of the Additional District Munsif, Thiruvallur and pass orders.

For Petitioner : Mr.A. Ilayaperumal



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ORDER

This Civil Revision Petition has been filed to set aside the Fair order and decretal order dated 11.08.2023 made in I.A.No. 4 of 2023 in O.S.No.30 of 2022 on the file of the Additional District Munsif, Thiruvallur and pass orders.

2. The case of the petitioner is that the petitioner has filed a application under under order 26 Rule 9 of CPC to note down the physical features of the property and report as to who is in possession of the disputed land and the same was dismissed vide order dated 11.08.2023. Aggrieved over the same, the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that appointment of advocate commissioner is necessary to note down the physical features of the subject property and to demarcate the subject property, report of the advocate commissioner is required and the said factum was not considered by the learned Judge and passed the dismissal order mechanically which requires interference by this Court.



4. On a perusal of records it is seen that the petitioner herein has filed the suit in O.S.No.30 of 2022 seeking for a permanent injunction restraining the defendants, their men and agent, from in any manner interfering with plaintiff's peaceful possession of the suit property. Pending suit the petitioner himself filed a petition under Order 26 Rule 9 of CPC to note down the physical features of the disputed land and report as to who is in possession of the disputed land and the same was dismissed.

5. This Civil Revision Petition revolves around two aspects, first one is whether it is necessary to note down the physical features of the property and the second aspect is that whether it is necessary to find out who is the possession of the property.

6. Considering the facts and circumstances of the case this Court is of the view that noting down the physical features of the property and demarcation of the property is just and necessary to arrive a better decision in the suit, however, but not about possession of the property. Further more, appointment of advocate commissioner will not affect the respondents or the suit proceedings in any manner as the Advocate Commissioner report will minimize much of the Court work with regard to identification and



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demarcation of the subject property. An Advocate Commissioner may be appointed to proceed with the case as per manner known to law.

7. In view of the above, the order dated 11.08.2023 made in I.A.No. 4 of 2023 in O.S.No.30 of 2022 on the file of the Additional District Munsif, Thiruvallur is hereby set aside.

8. With the above observations this Civil Revision petition is allowed. No order as to costs. Consequently the connected miscellaneous petition is closed.

10.10.2023

Internet : Yes/No
Index : Yes/No
msrm

To
The Additional District Munsif, Thiruvallur



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T.V.THAMILSELVI, J.

smn

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