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C.R.P.No.3664 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3664 of 2022

and

C.M.P.No.19411 of 2022

M.Neelammal

... Petitioner

Vs.

1.Yesuraja

2.Lakshmi

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Order passed in I.A.No.1 of 2022 in O.S.No.23 of 2017 dated 21.09.2022 by the learned District Munsif at Coonoor, the Nilgiris.

For Petitioner : Mr.J.Franklin

For Respondents : Mr.T.Gnana Banu

ORDER

This Civil Revision Petition is filed to set aside the order passed in I.A.No.1 of 2022 in O.S.No.23 of 2017 dated 21.09.2022.



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2. The revision petitioner is the plaintiff, who instituted the Suit for permanent injunction. During the pendency of the Suit, the revision petitioner filed I.A.No.1 of 2022 for appointment of an Advocate Commissioner to inspect the Suit Schedule Property along with a qualified surveyor and submit a report. The Interlocutory Application filed under Order XXVI Rule 9 was dismissed on the ground that the object of the provisions is to assist the Courts in appreciating the evidence to arrive at a just conclusion. Thus, the provision for appointment of an Advocate Commissioner cannot be used as a tool by the parties to collect evidence and substantiate their case.

3. The revision petitioner/plaintiff, who instituted the Suit has to establish the case through documents and evidences. While so, he cannot file an application for appointment of an Advocate Commissioner with an idea to collect evidence or to strengthen his case. Such an approach is impermissible and thus, this Court do not find any infirmity in respect of the findings made in the order impugned. Consequently the order dated 21.09.2022 passed in I.A.No.1 of 2022 in O.S.No.23 of 2017 stands confirmed.

4. Accordingly, this Civil Revision Petition stands dismissed. Consequently, the connected Civil Miscellaneous Petition is also dismissed.



However, there shall be no order as to costs.

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20.01.2023

rpl/mps

Index : Yes

Speaking order

To

The District Munsif, Coonoor, the Nilgiris.



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S.M.SUBRAMANIAM, J.

rpl/mps

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