



WEB COPY



C.R.P.No.2784 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2784 of 2017

and

C.M.P.No.13165 of 2017

G.Srinivasan

....

Petitioner

Vs

Thulasi Ayya

President,

Madhakaram Panchayat,

Valangaiman Taluk,

Thiruvarur District.

....

Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 12.06.2017 passed in I.A.No.88 of 2016 in O.S.No.5 of 2016 on the file of the District Munsif-cum-Judicial Magistrate, Valangaiman.

For Petitioner : M/s.P.Srividhya

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 12.06.2017 passed in I.A.No.88 of 2016 in O.S.No.5 of 2016 on the file of the District Munsif-cum-Judicial Magistrate, Valangaiman.

2. Though notice has been served on the respondent and his



C.R.P.No.2784 of 2017

name also printed in the cause list, there is no representation for the respondent either in person or through counsel.

3. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for bare injunction. Pending suit, the first defendant/respondent herein filed an application seeking appointment of Advocate Commissioner to measure the suit property with the help of surveyor, to note down the physical features and submit a report with plan.

4. Admittedly, the petitioner filed a suit for bare injunction and he has to prove his case in the manner known to law, whether the respondent is disturbing his peaceful possession and enjoyment of the suit property. In the suit for bare injunction, appointment of Advocate Commissioner would amount to collection of evidence.

5. That apart, the petitioner is the plaintiff and he has to prove his case in the manner known to law by letting oral and documentary evidence. There is absolutely no necessity to appoint an Advocate Commissioner and it would amount to gathering evidence. The Trial



C.R.P.No.2784 of 2017

Court is ought not to have appointed an Advocate Commissioner to measure the suit property and to note down the physical features of the same.

6. In view of the above, the order dated 12.06.2017 passed in I.A.No.88 of 2016 in O.S.No.5 of 2016 on the file of the District Munsif-cum-Judicial Magistrate, Valangaiman, is hereby set aside and accordingly, this Civil Revision Petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

23.02.2023

Index:Yes/No
Internet:Yes/No
Lpp

To

The District Munsif-cum-Judicial Magistrate,
Valangaiman.

G.K.ILANTHIRAIYAN, J.



WEB COPY



C.R.P.No.2784 of 2017

Lpp

C.R.P.No.2784 of 2017
and
C.M.P.No.13165 of 2017

23.02.2023