



CRP. No. 4051 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 4051 of 2022
and CMP No. 21017 of 2022

Abdul Hye

...Petitioner

Vs.

1.Mohammed jaffar
2.Murshidha Begam
3.Abdul Waheed
4.Abeesha Mubeena
5. Ahmed Ibrahim

....Respondents

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the order in I.A No. 3 of 2019 in O.S No. 883 of 2019, on the file of the Vth Additional District Court, Coimbatore dated 03.09.2022 as illegal, incompetent and as liable to be set aside at in-limini.

For Petitioner : Mr.M.Muruganantham

For R1 to R4 : Mr.R.Bharath Kumar

For R5 : Mr.S.Kalyanaraman



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ORDER

This petition has been filed to set aside the order in I.A No. 3 of 2019 in O.S No. 883 of 2019, on the file of the Vth Additional District Court, Coimbatore dated 03.09.2022 .

2. The petitioner herein filed I.A No. 3 of 2019 in O.S No. 883 of 2019 to appoint the Advocate Commissioner to note down the physical features of the suit property with the help of the surveyor. After considering the submissions, the Trial court dismissed the said application. Challenging the same the petitioner filed this petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. Considering the facts of the case, the suit is filed for partition between the brothers. According to the petitioner, after filing the suit, the respondents attempted to demolish the wall in which the electricity metre is fixed for the petitioner's house. Further, the appointing Advocate Commissioner to note down the physical features of the property would not cause any prejudice to the respondents and also it minimise the court work. But the Court below failed to appreciate the above facts and dismissed the



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application as such is erroneous. Hence, the order passed by the Trial Court in I.A No. 3 of 2019 in O.S No. 883 of 2019 is set aside. Thus, I.A No. 3 of 2019 is allowed. Further, both parties are directed to cooperate with the Advocate commissioner to note down the physical features.

5. In the result, this Civil Revision petition is allowed. No cost. Consequentially, connected miscellaneous petition is closed.

13.12.2023

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To

1. The Vth Additional District Court, Coimbatore.



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T.V.THAMILSELVI,J.

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