



C.R.P.No. 4181 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4181 of 2023

and

C.M.P.No.25479 of 2023

Babu

.. Petitioner

Vs

1.Arumugam

2.Balachandran

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside fair and decreetal order dated 30.06.2023 made in I.A.No.71 of 2023 in O.S.No.19 of 2016 on the file of the Principal District Munsif Court, Vridhachalam.

For Petitioner : Mr.T.Sezhian

ORDER

This Civil Revision Petition is filed challenging the impugned order passed in I.A.No.71 of 2023 in O.S.No.19 of 2016, the plaintiff has preferred this revision.



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2. Before the trial Court, the plaintiff / petitioner herein filed an application under Section 151 CPC to direct the Advocate Commissioner to give explanation to the objection filed by the plaintiff / petitioner herein for Commissioner report and plan. That application was dismissed by the trial Judge holding that there was no specific provision in the CPC to direct the Advocate Commissioner to give explanation, which is not permissible. Accordingly, the application was dismissed. As against which the present revision is filed.

3. Admittedly, the revision petitioner is the plaintiff before the trial Court, he filed an application to appoint Advocate Commissioner to note down the physical features and to measure the suit property, since he claimed the relief of declaration and other consequential relief. The Advocate Commissioner also visited and filed a report. According to the plaintiff / petitioner herein, the property was not been properly measured and report also found with discrepancies. Hence, he filed objection before the trial Court. As on date, the trial Judge has not passed any order in respect of the objection. Hence he filed present application seeking direction to give



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explanation to the Commissioner. But admittedly, as on date, the objection filed by the plaintiff / petitioner herein is on record but the same has not been considered by the trial Judge. If at all the plaintiff / petitioner herein has any objection to the Advocate Commissioner report, the trial Judge ought to have given a minimum opportunity by directing the Advocate Commissioner to measure the property but no such step was taken by the trial Judge. However, there is no provision of law to get explanation from the Advocate Commissioner but law permits that the Advocate Commissioner can revisit the property considering the objection made by the plaintiff / petitioner herein.

4. Therefore, the Advocate Commissioner is directed to revisit the property by considering the objection made by the plaintiff / petitioner herein by giving notice to both the parties. Accordingly, the trial Judge is directed to proceed with the matter.



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T.V.THAMILSELVI, J.

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5. In the result, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index :Yes/No

Neutral Citation :Yes/No

AT

To

The Principal District Munsif Court, Vridhachalam.

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