

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED : 08.12.2023****CORAM****THE HON'BLE MRS.JUSTICE T.V.THAMIL SELVI****CRP.No.4375 of 2023
and
CMP.No.26570 of 2023**

Sajath Begam

... Petitioner

Vs.

Haja Sayabu

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 07.10.2023 passed by the learned District Munsif cum Judicial Magistrate, Kattumannarkoil in I.A.No.250 of 2021 in O.S.No.55 of 2021.

For Petitioner : Mr.G.Pugazhenth

For Respondent : No appearance

ORDER



The petitioner has filed this petition to set aside the fair and decretal order dated 07.10.2023 passed by the learned District Munsif cum Judicial Magistrate, Kattumannarkoil in I.A.No.250 of 2021 in O.S.No.55 of 2021.

2. Before the trial Court the plaintiff has filed I.A.No.250 of 2021 to appoint an Advocate Commissioner to measure the property with the help of the Surveyor and to note down the physical features of the suit property and the same was allowed by the learned trial Judge. Aggrieved by the same, the revision petitioner has preferred this Civil Revision Petition.

3. The learned counsel for the revision petitioner submitted that the respondent herein / plaintiff has filed a suit for declaration and possession and for permanent injunction, and he is bound to prove the case based on the records and he also filed an interlocutory application to appoint an Advocate Commissioner to collect the evidence, as such is not permissible but the learned trial Judge erroneously allowed the I.A.No.250 of 2021.



4. On a perusal of the records, it reveals that the plaintiff has filed a suit for declaration and permanent injunction and the main allegation is that the defendant caused interference by enjoying the possession of the property and also admitted to remove the boundary stones. Already, the plaintiff filed an application to visit and measure the property to the Thasildar, even before filing of the suit, and the measurement is also under dispute. So to prove the same, now the plaintiff has filed an application to measure the property with the help of the Surveyor, which in any form cause damage to the defendant. Therefore, I do not find any points to interfere with the order passed by the learned trial Judge.

5. The learned counsel for the revision petitioner submitted that, the Commissioner is directed to measure the property as per the sale deed relied on by the plaintiff.

6. On a perusal of the records, the plaintiff relied on the sale deed dated 19.05.1987, based on that he purchased the property from previous vendors. Therefore, to measure the property as per the description found in sale deed

T.V.THAMIL SELVI, J.



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dated 19.05.1987 along with other records as submitted by both the parties, in the manner known to law.

7. Accordingly, this Civil Revision petition is disposed of. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

08.12.2023

Index : Yes/No

Speaking order / Non speaking order

Neutral Citation: Yes/No

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To

1. The learned District Munsif cum Judicial Magistrate,
Kattumannarkoil.
2. The Section Officer,
VR Section, High Court of Madras.

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