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C.R.P.(MD)No.342 of 2021



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.342 of 2021

and

C.M.P.(MD)No.1949 of 2021

Palaniammal, W/o.Vadivel

.. Petitioner

Versus

1.Bioyas, W/o.Joseph

2.Srinivasan, S/o.Lakshmanan

.. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 17.02.2020, passed by the learned Additional District Munsif, Dindigul, Dindigul District, in I.A.No.781 of 2018 in O.S.No.208 of 2018.

For Petitioner

: Mr.G.Gomathi Sankar

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 17.02.2020, passed by the learned Additional District Munsif, Dindigul, Dindigul District, in I.A.No.781 of 2018 in O.S.No.208 of 2018, appointing an Advocate Commissioner under Order XXVI Rule 9 of C.P.C., for inspection of the suit schedule property.

2. The learned counsel for the petitioner would submit that the question of appointing an Advocate Commissioner in a suit for bare injunction cannot be



allowed. Therefore, the impugned fair and decreetal order, dated 17.02.2020, is liable to be set aside.

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3. In this connection, a reference has been made to the decision rendered in **Kanniammal vs. Chellamuthu** reported in **2022 AIR CC 1193**.

4. The learned counsel for the petitioner, however, fairly concedes that since the case was not admitted and no notice was ordered, in the meanwhile, the Advocate Commissioner has inspected the property, pursuant to the impugned fair and decreetal order, dated 17.02.2020, made in I.A.No.781 of 2018 in O.S.No.208 of 2018.

5. Considering the fact that already a warrant was issued to the Advocate Commissioner, pursuant to the impugned fair and decreetal order, dated 17.02.2020, made in I.A.No.781 of 2018 in O.S.No.208 of 2018, I do not find any reason to interfere with the said impugned fair and decreetal order at this stage. However, it is left open to the petitioner to make appropriate submissions before the trial Court at the time of final hearing.

6. This Civil Revision Petition stands dismissed with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No

09.03.2023



To

The Additional District Munsif,
Dindigul, Dindigul District.



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C.SARAVANAN, J.

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Order made in
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