



C.R.P(MD)No.462 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.462 of 2023

and

C.M.P(MD)No.2197 of 2023

M.P.Puliyar

... Petitioner/Petitioner/
Defendant

Vs.

M.P.Nagamalaiyan

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 27-10-2022 passed in I.A.No.3 of 2022 in O.S.No.154 of 2018 on the file of the Additional District Munsif Court, Thirumangalam and allow the present civil revision petition.

For Petitioner : Mr.T.M.Lankaram



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ORDER

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The present revision petition has been filed by the defendant in a suit for permanent injunction seeking to injunct the defendant from disturbing the plaintiff from drawing water from S.C.No.792 in Survey No.96/1A.

2. Pending suit, the defendant who is one of the co-owners has filed an application in I.A.No.3 of 2022 for appointment of an Advocate Commissioner to establish the fact that the service connection stands in his name and he is drawing water from the said service connection for the joint family properties. The said application was dismissed by the trial Court on the ground that the defendant is attempting to establish his possession over the suit schedule properties. However, it could be seen that the suit is not been filed for a permanent injunction to protect possession. But, it has been filed only seeking an injunction as against the defendant from interfering with the plaintiff's right of drawing water from using S.C.No.792.



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3. According to the learned counsel for the petitioner, S.C.No.792 stands in his name. In order to establish that the service connection stands in his name, he would like to appoint an Advocate Commissioner to inspect the suit schedule properties and to note down the physical features.

4. When the S.C.No.792 stands in the name of the revision petitioner/defendant, he can very well produce the documents, electricity receipts and the deposit receipts to establish the fact that the said service connection stands in his name. There is no necessity for appointing an Advocate Commissioner to note down the physical features. Therefore, there is no infirmity in the order passed by the trial Court.

5. Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition stands allowed.

23.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Additional District Munsif,
Thirumangalam
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)No.462 of 2023

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