



C.R.P(MD)No.495 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.02.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.495 of 2023

and

C.M.P(MD)No.2386 of 2023

Karuppaiah

... Petitioner/Petitioner/
Defendant

Vs.

Eswara Prasad

... 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 07.01.2023 made in I.A. No. 677 of 2021 in O.S. No. 301 of 2014 on the file of the Learned District Munsif, Uthamapalayam, Theni District and allow the Civil Revision Petition.

For Petitioner : Mr.C.Jeganathan

ORDER

The present petition has been filed by the defendant in a suit for recovery of possession, challenging an order rejecting an application for appointment of Advocate Commissioner.



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2. A perusal of the pleadings in the suit indicates that the plaintiff claims that he is the owner of 6 cents of land and out of 6 cents, 400 sq.fts. has been encroached upon by the defendant which is marked as red portion in the rough sketch filed along with the plaint.

3. The case of the defendant is that the plaintiff is not the owner of the property and it is a Government poramboke property. The defendant has filed an application for appointment of Advocate Commissioner to note down the physical features of the property and also to identify whether there are any buildings in the said suit property.

4. In view of the above said facts, it is clear that the entire burden is upon the plaintiff to establish that he has got title for the entire 6 cents of land and the defendant has encroached upon the 400 sq.fts of land in the plaintiff's property. When the entire burden is upon the plaintiff, the defendant has unnecessarily filed such an application for appointment of Advocate Commissioner in a suit for recovery of possession. I do not find any merits in this revision petition.



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WEB COPY 5. Hence, this Civil Revision Petition stands dismissed. No costs.

Consequently, connected Civil Miscellaneous Petition is closed.

24.02.2023

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

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To

- 1.The District Munsif,
Uthamapalayam,
Theni District.
- 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
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