



C.R.P(MD)No.657 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.03.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.657 of 2023

and

C.M.P(MD)No.3066 of 2023

R.S.Sundaravel

...Petitioner

Vs.

Xavier Amirtharaj

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in I.A.No.66 of 2023 in O.S.No.41 of 2017 dated 14.02.2023 on the file of the District Munsif Court, Sathankulam.

For Petitioner : Mr.S.Sivakumar

ORDER

The present civil revision petition has been filed against the judgment and decree in I.A.No.66 of 2023 in O.S.No.41 of 2017, dated 14.02.2023 on the file of the District Munsif Court, Sathankulam.



C.R.P(MD)No.657 of 2023

WEB COPY

2. The petitioner herein is the defendant before the trial Court in O.S.No.41 of 2017 filed by the respondent herein. The aforesaid suit has been filed for bare injunction to restrain the petitioner from interfering with the peaceful possession of the suit schedule property. The petitioner herein has filed I.A.No.66 of 2023 under Order 26 Rule 9 of C.P.C for appointing Advocate Commissioner.

3. The learned counsel for the petitioner has placed reliance on the decision of this Court rendered in the case of K.V.Perumal Vs N.Gokulavasan reported in 2019 (2) MWN (Civil) 514. I am of the view that the present civil revision petition against the impugned fair and decreetal order in I.A.No.66 of 2023 in O.S.No.44 of 2017 is without merits. The trial Court has rightly rejected the application filed under Order 26 Rule 9 of C.P.C as appointment of Advocate Commissioner is not intended for collection of evidence.

4. It is well settled principle of law that no Advocate Commissioner cannot be appointed for collecting evidence. An Advocate Commissioner can be appointed only for the purpose of marking the



C.R.P(MD)No.657 of 2023

boundaries and for giving a report on the physical features of the property.

5. Therefore, there is no merit in the present Civil Revision Petition. Accordingly, the present Civil Revision Petition stands dismissed. Considering the fact that the suit is of the year 2017, the trial Court is directed to complete the proceedings as expeditiously as possible preferably within a period of 6 months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

13.03.2023

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

sn

To

1.The District Munsif Court,
Sathankulam.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD)No.657 of 2023

C.SARAVANAN,J.

SN

C.R.P(MD)No.657 of 2023

13.03.2023