



C.R.P.(MD)No.3061 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 30.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3061 of 2023

and

C.M.P.(MD)No.15800 of 2023

S.Muneeswaran

: Petitioner/Petitioner/Plaintiff

Vs.

1.M.Pitchaikani

2.P.Ayyamperrumal

3.Padmasooran

3.Shanmugavel

: Respondents/Respondents/Defendants

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order made in I.A.No.4 of 2022 in O.S.No.50 of 2019, dated 27.01.2023 on the file of the learned District cum Judicial Magistrate, Vilathikulam.

For Petitioner : Mr.C.Geetha



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ORDER

WEB COPY The Civil Revision Petition is directed against the order passed in I.A.No.4 of 2022 in O.S.No.50 of 2019, dated 27.01.2023 on the file of the learned District Munsif cum Judicial Magistrate, Vilathikulam, dismissing the petition filed under Order 26 Rule 9 C.P.C.

2. The revision petitioner has filed the above suit to declare that the suit property is belonging to him and for consequential permanent injunction restraining the defendants and their men from interfering with the peaceful possession and enjoyment of the suit property. Pending suit, the revision petitioners have filed an application for appointment of Commissioner for measuring the property with the help of surveyor and revenue records and to file a report with plan.

3. In the affidavit filed in support of the commission petition, the revision petitioner has specifically observed that by putting iron fence around the suit property, he has been in possession and enjoyment of the same. Since the plaintiff has claimed title to the suit property and also claimed to be in possession of the property, it is for him to prove his possession through acceptable evidence.



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4. As rightly observed by the learned trial Judge, there is no dispute about the identification and extent of the property. It is settled law that no commission can be appointed to show the possession of the property. As rightly pointed out by the learned trial Judge, the revision petitioner through the above application is attempting to show his possession, that cannot be permitted.

5. Considering the facts and circumstances of the case and also the reasons assigned by the revision petitioner for appointment of Commissioner, the impugned order dismissing the petition cannot be found fault with. Hence, this Court concludes that the Civil Revision is devoid of merits and the same is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

30.11.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das



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To

- 1.The District cum Judicial Magistrate,
Vilathikulam.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.3061 of 2023
and
C.M.P.(MD)No.15800 of 2023

Dated : 30.11.2023