



C.R.P.(MD)No.3002 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(PD)(MD)No.3002 of 2023

and

C.M.P(MD)No.15481 of 2023

S.Jerald Sagayanathan

: Petitioner/Respondent/
Plaintiff

Vs.

D.N.Dharmalingam

: Respondent/Petitioner
Defendant

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records connected with the order in I.A.No.4 of 2022 in O.S.No.662 of 2022, dated 04.08.2022 passed by the learned IV Additional Sub Court, Trichy and set aside the same.

For Petitioner : Mr.S.Malaikani

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.4 of 2022 in O.S.No.662 of 2022, dated 04.08.2022 on the file of the learned IV Additional Sub Court, Trichy, for appointing an Advocate Commissioner.



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2. The petitioner/plaintiff has filed a suit in O.S.No.662 of 2022 for permanent injunction restraining the defendant and their men from in any manner making constructions in the suit property. Pending suit, the defendant has filed an application for appointment of Commissioner and an Advocate Commissioner was appointed, who after visiting the property, has filed the report along with plan. Subsequently, the defendant has filed the above application to re-issue the commission warrant and the learned trial Judge, taking note of the objections raised by the petitioner, has directed the Advocate Commissioner to measure the petitioner's property as well as the suit property on the basis of the title deeds of both the parties and the revenue records with the help of a surveyor and file a report.

3. The learned counsel for the petitioner would submit that the respondent, with the help of the order passed by the trial Court, is attempting to enter into the house property of the petitioner under the guise of measuring the same and that it will be sufficient to measure the property from the out side. But, the learned trial Judge, after taking note of the objections, has directed the Commissioner to measure the petitioner's



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property as well as the suit property with reference to the documents and also with the revenue records.

4. Considering the above, the impugned order appointing Advocate Commissioner cannot be found fault with. Hence, this Court concludes that the Civil Revision Petition is devoid of merits and the same is liable to be dismissed.

5. In the result, the Civil Revision Petition is dismissed. However, the petitioner is at liberty to raise his objections before the Commissioner and the learned Commissioner is directed to decide as to whether the properties can be measured as directed by the trial Court without entering into the house of the petitioner and to proceed in accordance with his decision. No costs. Consequently, connected Miscellaneous Petition is closed.

16.11.2023

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



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To

- 1.The IV Additional Sub Court, Trichy.
- 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.(PD)(MD)No.3002 of 2023
and
C.M.P(MD)No.15481 of 2023

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