



CRP.(MD)No.2909 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CRP.(MD)No.2909 of 2023

and

C.M.P.(MD)No.15082 of 2023

T.Murugaraj

... Petitioner

Vs.

N.Ganesan

... Respondent

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 05.10.2023 made in I.A.No.2 of 2023 in O.S.No.267 of 2019 on the file of the learned Principal District Munsif Court, Kulithalai and allow this revision petition.

For Petitioner : Mr.V.G.Kamalesh

For Respondent : Mr.J.Madhu



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ORDER

This civil revision petition is directed as against the order passed in I.A.No.2 of 2023 in O.S.No.267 of 2019 dated 05.10.2023 on the file of the Principal District Munsif Court, Kulithalai appointing an Advocate Commissioner.

2.The learned counsel appearing for the petitioner would submit that the petitioner has earlier filed a petition for appointment of Advocate Commissioner and the same was allowed and Commissioner visited the property and filed a report along with plan, that during the visit of the Commissioner, the respondent has given a memo of instruction to the Advocate Commissioner, but subsequently, without scrapping the earlier Commissioner's report, the respondent has filed another application in I.A.No.2 of 2023 for appointment of Advocate Commissioner and that the trial Court, without considering the objection raised by the petitioner herein, has allowed the petition.



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3.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

4.Admittedly, the trial Court, when the suit was moved for interim relief, has appointed an Advocate Commissioner and the learned Commissioner has also visited the property and filed his report. It is not in dispute that at the time of Commissioner's visit, the respondent herein has given their memo of instruction. Admittedly, the petitioner has not raised any objection to the Commissioner's earlier report and according to him the respondent has not taken any steps to scrap the Commissioner's report so far.

5.The learned counsel appearing for the petitioner would submit that they have no objection to re-issue warrant to the earlier Commissioner for, which the learned counsel appearing for the respondent has agreed for the same.

6.Considering the facts and circumstances and taking note of the submission on either side, the impugned order in I.A.No.2 of 2023 in



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O.S.No.267 of 2019 dated 05.10.2023 on the file of the Principal District Munsif Court, Kulithalai, is hereby set aside and the learned trial Judge is directed to re-issue the Commission warrant to the very same Advocate Commissioner appointed in I.A.No.1056 of 2019, with a direction to visit the suit property and note down the physical features and to file a report with plan. The learned trial Judge is further directed to fix the remuneration and the time limit of filing the Commissioner's report and plan. Accordingly, this civil revision petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

07.11.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
gns

To
The Principal District Munsif Court,
Kulithalai



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K.MURALI SHANKAR,J.

gns

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