



C.R.P.(MD)No.3000 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(PD)(MD)No.3000 of 2023

and

C.M.P.(MD)No.15468 of 2023

1.Fazrul Rahman

2.Najeemnisha

: Petitioners/Petitioners/
Defendants

Vs.

Salai Sayabu

: Respondent/Respondent/
Plaintiff

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.3 of 2023 in O.S.No.45 of 2022 by the District Munsif Court, Palani, dated 04.10.2023.

For Petitioners : Mr.D.Venkatesh

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.3 of 2023 in O.S.No.45 of 2022 by the District Munsif Court,



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Palani, dismissing the petition filed for receiving the additional written statement.

2. The respondent/plaintiff has filed the above suit to declare that the pathway belongs to them and for consequential permanent injunction restraining the defendants therein from interfering with their peaceful possession and enjoyment of the pathway. Pending suit, an Advocate Commissioner was appointed and he has filed his report and plan. Subsequently, the defendants have filed the present application to receive the additional written statement.

3. The learned Judge, by observing that the above petition came to be filed when the suit was listed for trial and that the additional written statement is only with respect to the Commissioner's report and plan, dismissed the petition.

4. It is settled law that the report and plan of the advocate commissioner can be used only for elucidating any matter in issue and no party can be permitted to use the same for raising pleadings and the petitioner has to prove his defence independently.



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5. Considering the above, dismissing the petition filed for receiving the additional written statement, 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.

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

16.11.2023

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

To

- 1.The District Munsif Court, Palani.
- 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.3000 of 2023
and
C.M.P.(MD)No.15468 of 2023

Dated : 16.11.2023