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CRP.No.811 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRP.No.811 of 2024

and

CMP.No.4024 of 2024

A.K.Suresh

...

Petitioner

Vs.

1.The Panchayat President,
Melakondaiyar Village Panchayat
Melakondaiyar Village,
Thiruvallur Taluk & District.

2.D.Srinivasan

...

Respondents

Prayer: Civil Revision Petition has been filed under Article 227 of Constitution of India to set aside the order of dismissal dated 07.12.2023 in I.A.No.4 of 2023 in O.S.No.52 of 2023 passed by the learned Additional District Munsif, Thiruvallur.

For Petitioner : Ms.Shruti R



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ORDER

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This civil revision petition has been filed to set aside the order of dismissal dated 07.12.2023 in I.A.No.4 of 2023 in O.S.No.52 of 2023 passed by the learned Additional District Munsif, Thiruvallur.

2.The learned counsel appearing for the petitioner submitted that the respondents are the defendants and the revision petitioner is the plaintiff in O.S.No.52 of 2023 on the file of the Additional District Munsif Court, at Thiruvallur. The plaintiff filed the suit for permanent injunction against the respondents, in which, the petitioner filed an application in I.A.No.4 of 2023 for appointment of an Advocate Commissioner along with the assistance of Taluk Surveyor to measure the suit schedule property and to note down the water pipeline originate and emerging from the bore well situated in Dry S.No.68/2- (0.44 out of total extent 0.88/ in patta No.199) and the service connection No.48-2214-141 with electric motor of 10 HP capacity and file a report. The trial Court, after considering the submission of the petitioner, dismissed the petition on 07.12.2023 on the ground that an



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appointment of Advocate Commissioner is not necessary and there is no dispute regarding the identification of the plaint schedule property, hence, it is under challenge.

3.I have considered the matter in the light of the submission made by the learned counsel appearing for the petitioner and perused the materials available on record.

4.On perusal of the records, the fact reveals that the revision petitioner has been filed the suit in O.S.No.52 of 2023 against the respondents for permanent injunction and other reliefs. Further, on perusal of the plaint in paras 3 & 4, it is stated that the plaintiff has been in possession and enjoyment of the plaint mentioned property for the past 30 years continuously without any interruption. Apart from this, there is no dispute with regard to the identification of plaint schedule property. The suit being a permanent injunction restraining the defendants, their men , subordinates, representatives and agents from interfering with the plaintiff's peaceful possession and enjoyment



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of the plaint schedule property. At this situation, an appointment of Advocate Commissioner along with the assistance of Taluk Surveyor to measure the suit schedule property is unwarranted. Therefore, the trial Court rightly dismissed the application in I.A.No.4 of 2023 and there is no ground to interfere with the impugned order passed by the trial Court. Accordingly, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index:Yes/No
Internet:Yes/No
sms

12.03.2024

To

- 1.The Panchayat President,
Melakondaiyar Village Panchayat
Melakondaiyar Village,
Thiruvallur Taluk & District.
- 2.The Additional District Munsif Court,
Thiruvallur.



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V.SIVAGNANAM, J.

sms

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