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C.R.P.No.1129 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1129 of 2024

and

C.M.P.No.5856 of 2024

M.Shivakumar

... Petitioner

Vs.

1.M.Vijayakumar

2.V.Kanchana

3.V.Ganasekar

4.M.Arulkumar

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order made in I.A.No.3 of 2023 in O.S.No.6 of 2023 on the file of the learned Additional District Munsif Court dated 20.07.2023.

For Petitioner

:M/s.M.R.Thangavel



ORDER

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The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner to note down the physical features of the suit property.

2. The petitioner herein filed a suit for bare injunction asserting exclusive possession over the suit property. Pending suit, the instant application has been filed seeking appointment of Advocate Commissioner to note down the physical features. In the affidavit filed in support of the application seeking appointment of Advocate Commissioner, it was averred by the petitioner that respondents were attempting to lay staircase on the eastern side of the petitioner's property and hence, the Advocate Commissioner shall be appointed to note down the physical features.

3. The petitioner filed a suit for bare injunction claiming exclusive possession over the suit property. The alleged possession over the suit property has to be proved by leading independent oral and documentary



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evidence. The Advocate Commissioner cannot be appointed to ascertain the fact by possession. Therefore, the Trial Court rightly dismissed the application filed by the petitioner for appointment of Advocate Commissioner to note down the physical features. I do not find any error in the order impugned in this revision. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

26.03.2024

Index : Yes / No
Internet : Yes / No
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To
The Additional District Munsif Court, Vellore.

S.SOUNTHAR, J.



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