



C.R.P.(PD).No.2426 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2426 of 2021
and CMP.No.18419 of 2021

A.Vijayasarathy

... Petitioner

vs.

A.C.Ravishankar

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to direct the learned Additional District Munsif, Thiruvallur to allow the I.A.No.1152 of 2018 in O.S.No.108 of 2017 by allowing this Civil Revision Petition.

For Petitioners
For Respondent

: Mr.N.Sreenivasalu
:Mr.Suriya Sankar
for sole respondent



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Court below partly allowing an application seeking appointment of Advocate Commissioner for local inspection to note down the physical features of the suit property.

2. The respondent herein filed a suit for bare injunction in respect of two items of properties. It is settled law that in a suit for bare injunction, a plaintiff has to establish his possession over the suit property and obtain a decree. It is also equally settled that the physical possession of the properties cannot be ascertained by appointment of Advocate Commissioner. In the case on hand, the petitioner/defendant is disputing the very existence of the well described in item No.2 of the suit property, filed the present application seeking appointment of Advocate Commissioner for local inspection to note down the physical features, measure the suit property in S.Nos.275/1B1, 1B2, 1B3 and 1B4 and fix western boundary limit of the property.



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3. The Court below by taking into consideration the averment

found in the affidavit filed in support of the petition and the counter affidavit came to the conclusion that there is a dispute with regard to the very existence of the well in the pleadings of the parties and therefore, the appointment of Advocate Commissioner for local inspection is necessary to verify the very existence of well in item No.2 of the suit property and allowed the application. As far as prayer made by the petitioner regarding fixation of western boundary is concerned, the same has not been ordered by the Court below on the ground that in a suit filed by the respondent for bare injunction, the petitioner/defendant is not entitled for fixation of boundary to the property.

4. I do not find any infirmity or irregularity in the order passed by the Court below and accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

24.01.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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S.SOUNTHAR, J.

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To

The Additional District Munsif,
Thiruvallur.

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