



CRP No.4694 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.4694 of 2023

Natarajan

... Petitioner

Vs.

1.P.Sreenivasan

2.Nelson

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned order dated 13.06.2023 not appointing the advocate commissioner to measure the disputed land in IA No.389 of 2021 in OS No.52 of 2020 on the file of the District Munsif Court at Tambaram, pending disposal of the above CRP.

For Petitioner

: Mr.J.Arul Prakasam

ORDER

The civil revision petition is filed to set aside the impugned order dated 13.06.2023 not appointing the advocate commissioner to measure the disputed land in IA No.389 of 2021 in OS No.52 of 2020 on the file of the District Munsif Court at Tambaram, pending disposal of the above Civil Revision Petition.



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2. The revision petitioner is second defendant and the first respondent is the plaintiff and the second respondent is the first defendant in OS No.52 of 2020 on the file of the learned District Munsif at Tambaram. The first respondent/plaintiff has filed the suit for permanent injunction against the petitioner and the second respondent. The second defendant/petitioner filed IA No.389 of 2021 to appoint an advocate commissioner to measure and identify the Survey No.129 in petitioner/defendant's property and Gramanatham in Survey No.127, respondent/plaintiff's property in Sembakkam Village, Tambaram Taluk, to note down the physical features of the suit property with the help of a surveyor. The learned Judge considering the submissions of the learned counsel for the parties, by order dated 13.06.2023 had dismissed the application on the ground that the commissioner cannot be appointed to note down the physical features or enjoyment of the property and the parties should prove their possession by letting acceptable evidence. There is no need for appointing advocate commissioner to identify the said property to prove his possession and no purpose will be served by appointing the commissioner. Challenging the said



order, the petitioner has filed the present civil revision petition.

3. Learned counsel for the petitioner submits that the appointment of an advocate commissioner along with an surveyor is necessary to measure and identify the Survey No.129 in petitioner/defendant's property and Gramanatham in Survey No.127, respondent/plaintiff's property in Sembakkam Village, Tambararm Taluk, to note down the physical features of the suit property. Hence, seeking to allow the Revision.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Admittedly, the appointment of an advocate commissioner is to measure and identify the properties in Survey Nos.129 and Survey No.127 and in a suit for permanent injunction filed by the plaintiff, the plaintiff has to prove his possession and right to continue in possession for getting an order of permanent injunction. In the absence of any dispute with regard to



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identification of properties, the appointment of advocate commissioner with surveyor to measure the property is unwarranted and the trial court has rightly dismissed the said application. There is no infirmity in the order passed by the trial court. There is no ground to interfere with the order passed by the trial court. There is no merit in the Revision. Hence, the civil revision petition is dismissed. There shall be no order as to costs. Consequently, CMP No.27901 of 2023 is closed.

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Index: Yes/No
Internet: Yes/No
mrn

To

The District Munsif Court at Tambaram

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V.SIVAGNANAM, J.

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