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C.R.P.(PD)No.4798 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.01.2024

Coram:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(PD)No.4798 of 2023

Muthuvel

.. Petitioner

/versus/

1.Arumugam

2.Balachandar

3.Minor Satheeshkumar

S/o Sankar

Rep.by Guardian Mother

Selvamani

4.Minor Rahul

S/o Dharmalingam

Rep.by Guardian Mother

Rajalakshmi

5.Shanmugam

.. Respondents

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decretal order dated 18.08.2023 passed in I.A.No.2 of 2023 in O.S.No.209 of 2021 on the file of the III Additional District and Sessions Court, Cuddalore at Vridhachalam.

For Petitioner :Mrs.R.Meenal



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ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 18.08.2023 passed in I.A.No.2 of 2023 in O.S.No.209 of 2021 on the file of the III Additional District and Sessions Court, Cuddalore at Vridhachalam.

2. The learned counsel appearing for the petitioner submitted that the petitioner/plaintiff had filed a suit in O.S.No.209 of 2021 on the file of the III Additional District and Sessions Court, Cuddalore at Vridhachalam with the following prayers:-

(i) To declare the suit property in favour of the plaintiff.

(ii) For Permanent Injunction restraining the defendants, their men and agents from their peaceful possession of the suit property and

(iii) To pay costs of the suit.



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3. He further submitted that the petitioner filed an application in I.A.No.2 of 2023 seeking to appoint an Advocate Commissioner with the help of the surveyor to identify S.No.25/6 situated at Pallipattu village, Virudhachalam Taluk, Mangalampettai, Virudhachalam, which was dismissed by the III Additional District and Sessions Judge, Cuddalore at Virudhachalam by passing an impugned order dated 18.08.2023 on the ground that there is no dispute with regard to identification and extent of the property and the trial Court dismissed the application saying that the appointment of the Advocate Commissioner is unwarranted. Now, the said order is challenged before this Court.

4. I have considered the submissions made by the learned counsel appearing for the petitioner and perused the materials available on record.

5. On perusal of the plaint, it is seen that the plaintiff seeks declaration with regard to the schedule mentioned property besides permanent injunction against the defendants. In the plaint averments, there is no dispute with regard to the identification of the property and also extent of the property. Further, it is noted in the impugned order that between the



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two parties, there is no dispute with regard to identification of property and extent of the suit property.

6. Under these circumstances, the appointment of the Advocate commissioner with the help of the surveyor to identify the suit property with the survey number and extent of the suit property is unwarranted. The trial Court has rightly dismissed the application. Therefore, I find no merit in this petition and there is no reason to interfere with the impugned order. Hence, this Civil Revision Petition is dismissed. No costs.

03.01.2024

Index:yes/no
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To:

III Additional District and Sessions Court,
Cuddalore at Vridhachalam.



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V.SIVAGNANAM, J.,
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