



C.R.P(MD)No.277 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

C.R.P(MD)No.277 of 2024
and C.M.P(MD)No.1288 of 2024

Rajamani

...Petitioner/Petitioner/Defendant

Vs.

Mohammed Kabeer

...Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records of the learned District Munsif cum Judicial Magistrate, Tiruvidaimaruthur, made in I.A.No. 161 of 2022 in O.S.No.93 of 2019 and set aside the fair and decreetal order dated 06.07.2023.

For Petitioner : Mr.B.Anandan

For Respondent : No appearance



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ORDER

This revision is preferred against the order dated 06.07.2023 passed by the learned District Munsif cum Judicial Magistrate, Tiruvidaimaruthur, in I.A.No.161 of 2022 in O.S.No.93 of 2019.

2. Heard the learned counsel for the petitioner and perused the materials available on record. There is no representation for the respondent.

3. I.A.No.185 of 2014 was filed by the respondent/ plaintiff for appointment of an Advocate Commissioner. As per the ex-parte order passed in I.A.No.185 of 2015 on 05.03.2015, a Commissioner was appointed. The Commissioner has visited the property and filed a report. When the trial has about to commence, the petitioner filed impugned petition in I.A.No.161 of 2022 in O.S.No.93 of 2019 for accepting his objection with the delay



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condonation prayer. In the objection, it is stated that without measuring the property, the Commissioner has filed a report and that will not resolve the issue.

4. The trial court dismissed the impugned objection petition filed by the petitioner by stating that there is an inordinate delay in filing the same and no documents is filed to condone such a long delay. Against which, this revision is filed.

5. On hearing the above submission, this Court is of the view that after letting evidence by both parties, if any discrepancy arises there between the evidence and the Commissioner's report, in that event the court can re-issue the Commissioner's warrant to bring on record the correct physical features available in the ground. The said exercise may be undertaken by the court on its own motion or at the instance of any of the parties.



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6. With the above observation, this revision is disposed

of. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM

To,

1. The District Munsif cum Judicial Magistrate, Tiruvidaimaruthur

2. The Section Officer,

V.R. Section, Madurai Bench of Madras High Court, Madurai.



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G. ILANGO VAN, J.

CM

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