



C.R.P(MD)No.185 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

C.R.P(MD)No.185 of 2023
and C.M.P. (MD)No.893 of 2023

K.Sundaravel ...Revision Petitioner/Petitioner/Plaintiff

Vs.

Maruthaveeran ...Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.09.2022 passed in I.A.No.1 of 2022 in O.S.No.21 of 2020 on the file of the District Munsif court, Virudhunagar.

For Petitioner : Mr.S.V.Nagarajan

For Respondent : Mr.E.Mareeshkumar

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 19.09.2022 passed in I.A.No.1 of 2022 in



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O.S.No.21 of 2020 on the file of the District Munsif court,
Virudhunagar.

2. The suit in O.S.No.21 of 2020 is filed by the revision petitioner seeking the relief of declaration that the suit property absolutely belongs to him and for consequential injunction and for cost etc., The defendants entered appearance and in the course of trial process, a petition was taken out by the revision petitioner with the following averments:

The suit property originally comprised in Survey No.944/1B and in S.No.945 and at present Survey No. is 1689/44. Survey No. 944 was subdivided into 944/1A, 944/1B and 944/2. In the property comprised in new S.No.1689/44, the respondent has no right or title. To prove the same, appointment of Advocate Commissioner is required.

3. That was resisted by the respondent stating that the disputed property is in his possession and patta was also issued in his favour.



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Against the patta proceedings, the plaintiff filed an appeal before the Revenue Divisional Officer and that was also dismissed. They put up construction and they are living there. To assess the ownership or possession, no appointment of Advocate Commissioner can be made.

4. The trial court, after hearing both sides, dismissed the petition stating that in the facts and circumstances of the case appointment of Advocate Commissioner is not required and who is in possession of the property is to be decided in the suit. Against which this revision is filed.

5. In the ground, they simply stated that for noting down the physical features only the petition was filed.

6. There is no dispute with regard to subdivision of the property. Both parties claim rival title and possession over the property. The respondent stated that the patta was issued in his



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favour against which the revision petitioner filed an appeal before the Revenue Divisional Officer. That came to be dismissed. The order of the Revenue Divisional Officer dated 02.05.2018 is placed on record.

7. A reading of the order of the Revenue Divisional Officer indicates that the revision petitioner made an objection for having issued free patta in favour of the respondent in respect of Survey No. 1689/44 measuring about 122 sq mts. There is a finding by him that the property comprised in Survey No.1689/44 is not in possession of the revision petitioner. By challenging the same, this revision is filed.

8. In such circumstances, I find that absolutely no necessity arises to appoint a Commissioner.

9. The learned counsel for the revision petitioner would rely upon the order passed by this Court in CRP(MD)No.1781 of 2021.



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The facts in that case are entirely different from the present case.

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10. I find no reason to interfere with the order of the trial court. Accordingly, this revision is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.03.2024

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

To

1. The District Munsif court, Virudhunagar.

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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