



C.R.P.PD(MD)No.956 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.PD(MD).No.956 of 2020

&

C.M.P(MD).No.6192 of 2020

K.S.Muthu

... Petitioner

Vs.

1.Rajagopal

2.Gopinathan

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 15.07.2019 and made in I.A.No.1180 of 2019 in O.S.No.279 of 2019 on the file of Principal District Munsif, Dindigul.

For Petitioner : Mr.M.Thayaumanaswamy

For Respondents : Mr.S.Sarvagan Prabhu for R1

Mr.H.Elango for R2



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ORDER

This Civil Revision Petition is filed against an order dated 15.07.2019, passed in I.A.No.1180 of 2019 in O.S.No.279 of 2019 on the file of the court of Principal District Munsif, Dindigul. The said application was filed by the respondent along with the suit seeking appointment of an Advocate commissioner to survey the land and submit a report before the Court along with the sketch.

2. The learned trial court at the first instance itself even before summons are issued to the defendants who are respondents in the I.A.No. 1180 of 2019, ordered the said application by passing the following docket order:

“ Petitioner side heard. Records perused. Advocate Mr.S.Alan Briceli is appointed as an Advocate Commissioner. His fees is fixed at Rs.3500/-. Petitioner is directed to pay Commissioner fee directly. Commissioner is directed to inspect.”

3. From the perusal of the above order, it is not known as to how



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the trial court satisfied that the appointment of an Advocate Commissioner is necessary in the facts and circumstances of the case. Further, the said order was also passed without notice to the respondents in the said application. For want of assigning reasons and also for want of affording an opportunity to the respondents in I.A.No.1180 of 2019, this court is of the considered view that the order under revision cannot be sustained and accordingly the order under revision is set aside, duly remanding the matter back to the trial court for considering the I.A.No.1180 of 2019, afresh by affording an opportunity to the respondent therein.

Accordingly, the Civil Revision Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

15.03.2024.

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To
The Principal District Munsif, Dindigul



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MUMMINENI SUDHEER KUMAR, J.

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