



C.R.P(MD).No.587 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.587 of 2024

and

C.M.P(MD)No.2919 of 2024

P.Rani

... Petitioner / 2nd Respondent /

2nd Defendant

Vs

1.S.Devika

... 1st respondent / Petitioner / Plaintiff

2.Pandiarajan

... 2nd respondent / 1st respondent / 1st defendant

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned docket order made in I.A.No.3 of 2023 in O.S.No.548 of 2023 dated 20.12.2023, by the Hon'ble II Additional District Munsif Court, Madurai.

For Petitioner : Mr.R.Anandharaj



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ORDER

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This Civil Revision Petition is filed to set aside the impugned docket order made in I.A.No.3 of 2023 in O.S.No.548 of 2023 dated 20.12.2023, by the Hon'ble II Additional District Munsif Court, Madurai.

2. The grievance of the petitioner is that an *ex parte* commissioner was appointed in I.A.No.3 of 2023. Without even notice to the revision petitioner and hearing his objections, a docket order was passed by the trial court appointing an advocate commissioner, stating that since there is an issue over the encroachment of pathway and construction, it is necessary to appoint commissioner.

3. No doubt, that the above said order is valid, but the problem lies in not giving opportunity to the revision petitioner to make his objection. Even the *ex parte* commissioner is appointed, there is no bar for the revision petitioner to participate in the survey process.

4. According to the learned counsel for the petitioner, suppressing



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the earlier petition filed by the petitioner's husband, the suit was filed by the 1st respondent herein and to establish the same she would have given opportunity of personal hearing.

5. On the above sole ground, the order in I.A.No.3 of 2023 in O.S.No.548 of 2023 dated 20.12.2023, is set aside and the matter is remanded back to the learned II Additional District Munsif, Madurai, to reopen the I.A.No.3 of 2023 and after hearing both sides, a fresh order may be passed, in accordance with.

6. With this direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

01.03.2024

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

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G.ILANGO VAN, J.

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To

- 1.The II Additional District Munsif Court, Madurai.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
C.R.P(MD)No.587 of 2024
and
C.M.P(MD)No.2919 of 2024

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