



C.R.P(MD).No.654 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 27.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.654 of 2024

A.Ponnukalai @ Pidaran ... Petitioner / Petitioner / Plaintiff

Vs

1.A.Thavamani

2.A.Suir

3.N.Selvam ... Respondents / Respondents / Defendants

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and ex order dated 05.09.2023 passed by the learned District Munsif, Melur in I.A.No.1 of 2021 in O.S.No.187 of 2021.

For Petitioner : Mr.S.Sukumar



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ORDER

This Civil Revision Petition is filed to set aside the fair and ex order dated 05.09.2023 passed by the learned District Munsif, Melur in I.A.No.1 of 2021 in O.S.No.187 of 2021.

2. The suit in O.S.No.187 of 2021 was filed by the revision petitioner herein seeking the relief of permanent injunction and for costs. Pending the suit, a petition was taken out in I.A.No.1 of 2021 seeking appointment of a commissioner. At that time, the defendants / respondents herein remained *ex parte*, so they were set *ex parte*. Later the above said petition was dismissed by the trial Court against which this Civil Revision Petition is preferred.

3. In the affidavit, it has been stated by the revision petitioner that the suit property is an ancestral property and patta is also standing in the name of the revision petitioner. The defendants are having property on the northern side. They are making disturbance to the possession. They are also disputing the boundary lines. He paid the required fee for fixing



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the boundary lines. But that was rejected by the concerned authorities.

Since the defendants are continuously disturbing his possession, the revision petitioner filed a suit. Now this petition is filed seeking appointment of commissioner. The trial Court dismissed the petition stating that to ascertain the possession, no commissioner can be appointed. No required pleadings is also made in the petition. Against which, this Civil Revision Petition is preferred.

4. Learned counsel for the petitioner would submit that the respondents are frequently disturbing his possession. To ascertain the possession only, now they filed the petition.

5. As stated by the trial Court to ascertain the possession, no commissioner can be appointed. If there is any issue with regard to the boundary, the petitioner may move the revenue authority for fixing the boundary line as per Section 10 of the Tamil Nadu Survey and Boundaries Act. According to him, he made the steps to the Revenue Authorities and the request was rejected. Without fixing the boundary line, it appears that the suit has been filed stating that the defendants are



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making disturbance. What sought of decree is going to be passed may not be known now. As stated above, the petitioner can very well file proper petition before the revenue authorities to fix the boundary line and that will be the proper course. Without adopting the proper course, the suit has been filed and a petition is also filed seeking ascertainment of the possession. The petition itself is a misconceived one.

6. With the above observation, this Civil Revision Petition is dismissed. No costs.

27.03.2024

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

- 1.The District Munsif, Melur.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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