



WEB COPY

C.RP(MD)No1481 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.1481 of 2024

and

C.M.P(MD)No.8750 of 2024

Boopathi

... Revision Petitioner/Petitioner
/Plaintiff

Vs.

1.Kanoj

2.Karthick

...Respondents/Respondents/

Defendants

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed by the Principal District Munsif Court, Trichy, under I.A.No.2 of 2023, in O.S.No.405 of 2023 dated 12.03.2024.

For Petitioners

:Mr.R.Murugesan

ORDER

The civil revision petition is directed against the fair and decreetal order of the learned District Munsif, Tiruchirappalli, dated 12.03.2024 in IA.No.2 of 2023 in OS.No.405 of 2021.



2. In the suit, it is stated that the defendant is the relative of the plaintiff. While so, when the first defendant wanted to purchase the suit property and build a house, he did not have enough money and therefore, he entered into an oral agreement with the plaintiff and both of them shared the money and the property was purchased and two houses were built and in the house built in the northern portion of the suit property, the plaintiff is residing. The first defendant, without executing the necessary sale deed in favour of the plaintiff in respect of the said half of the property, is now going back and hence, the suit.

3. The case of the defendant is that the plaintiff being the uncle of the first defendant was contacted only as a close relative/ Manager to manage the project. The case of the defendant is that the first defendant has purchased the entire property on his own and both houses were built only for him out of his own money. Only because the plaintiff is a close relative, he permitted him to reside in the northern portion.

4. Therefore, the issue between the parties is whether or not the property was purchased by the money belonging to both the plaintiff and the first defendant and whether or not there was an agreement between the plaintiff and the first defendant to share the suit property. There is no any dispute as



to the boundary or the physical features of the suit property.

WEB COPY

5.In view thereof, there is no necessity for the Advocate Commissioner to be appointed to visit the suit property. When the plaintiff's possession in the northern side of the property is also admitted and when it is the case of both the parties, two independent houses were built in the suit property, there is no question of even noting down the physical features.

6.In view thereof, the ultimate decision of the trial Court in rejecting the appointment of Advocate Commissioner cannot be found fault with. Therefore, finding no merits, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.07.2024

NCC:Yes/No
Ns

To

1.The Principal District Munsif Court,
Trichy.



WEB COPY

C.RP(MD)No1481 of 2



D.BHARATHA CHAKRAVARTHY, J.

Ns

**C.R.P(MD)No.1481 of 2024
and
C.M.P(MD)No.8750 of 2024**

10.07.2024