



C.R.P.(MD)No.1587 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.1587 of 2023
and C.M.P.(MD).No.7786 of 2023

Daniel Sureshkumar ... Petitioners/Petitioner/Defendant

Vs.

Imanuvel Arulsing Gnanadurai ... Respondent/Respondent/Plaintiff

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 17.02.2023 passed in I.A.No.1 of 2022 in O.S.No.123 of 2022 on the file of the District Munsif Court, Nanguneri.

For Petitioner : Mr.C.K.M.Appaji

For Respondent : Mr.V.Sorimuthu

ORDER

This civil revision petition has been filed to set aside the fair and decreetal order, dated 17.02.2023 passed in I.A.No.1 of 2022 in O.S.No.123 of 2022 on the file of the District Munsif Court, Nanguneri.



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2.Suit in O.S.No.123 of 2022 is filed by the plaintiff namely the respondent herein, seeking the relief of declaration, to remove the fencing and for permanent injunction. Pending the above said process, application has been taken out by the respondent herein to appointment Commissioner to note down the physical features. That came to be allowed by the trial Court. Against which, this revision has been preferred by the defendant, stating that even in the affidavit that was filed by the respondent it is clearly stated that they want to collect evidence by way of appointment of commissioner. Apart from that it is also submitted that without filing the suit for recovery of possession, the above said application has been filed.

3.Per contra, the learned counsel for the respondent would submit that when that was pointed out to the plaintiff to include the prayer for recovery of possession, he filed amendment petition. It is not yet numbered. Since stay order has been passed by this Court, it is kept pending.



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4. Whatever may be, since petition for amendment is filed, only after disposing of the amendment petition, the necessity of appointment of commissioner may arise. Till the above said application is decided, further process in the commission application shall be kept in abeyance. Depending upon the outcome of the amendment application, further process in the commission application, if required, may be taken by the trial Court.

5. With the above said directions, this civil revision petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

01.03.2024

Index : Yes / No
Internet : Yes / No
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To

1. The District Munsif, Nanguneri.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.

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G.ILANGO VAN,J.

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