



C.R.P.(MD)No.3356 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.3356 of 2023
and C.M.P.(MD).No.17367 of 2023

1.Karthikeyan

2.Priya

... Petitioners/Respondents/Defendants

Vs.

Velusamy

... Respondent/Petitioner/Plaintiff

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.543 of 2023 in O.S.No.89 of 2023 on the file of the District Munsif Court, Oddanchatram dated 10.11.2023.

For Petitioners : Mr.D.Venkatesh

ORDER

This petition has been filed against the fair and decreetal order passed in I.A.No.543 of 2023 in O.S.No.89 of 2023 on the file of the District Munsif Court, Oddanchatram dated 10.11.2023.



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2.The petitioner is the defendant in O.S.No.89 of 2023 before the trial Court. The suit was filed by the respondent herein against this petitioner and others, stating that a car tract mentioned as 'ABCD' in the rough sketch running on the north of survey No.273/1B and 273/4A and East-West and North-South in Survey No.273/1B and for permanent injunction and for cost. Pending the trial process, he has taken out a petition for appointment of Commissioner, that came to be allowed by the trial Court by the impugned order. Against which this revision has been preferred. Before the trial Court objection was raised by this petitioner stating that State Highways running in S.No.273/1A, 273/2A and 273/3A and the respondent got property in S.No.273/3B, which is adjacent to the S.No.273/3A. So they can take direct access from their property to the Highways. Apart from that he also contended that no pathway is in existence. To gain some unfair advantage by way of appointment of Commissioner, that petition came to be filed.

3.The very same ground is also raised by the revision petitioner before this Court also. But reading of the order passed by the trial Court indicates that whether the respondent got alternative cart track or not is



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matter for consideration during the trial. Unless the physical features brought on record, the Court may not be in position to ascertain the situation and appreciate the contention of the parties. It may not be termed as collection of evidence. I find absolutely no reason to entertain this petition. If the revision petitioner aggrieved by the Commissioner report he can file his objection before the trial Court itself.

4. Accordingly, this civil revision petition stands dismissed. Consequently, connected miscellaneous petition stands closed.

09.01.2024

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

To

1. The District Munsif, Oddanchatram.
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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