



C.R.P(MD)No.3185 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.12.2024

CORAM :

THE HONOURABLE Mrs. JUSTICE K.GOVINDARAJAN THILAKAVADI

**C.R.P(MD)No.3185 of 2024
and
C.M.P(MD)No.18321 of 2024**

Santhana Mariappan

... Petitioner / Defendant

Vs

Pushpaselvi

... Respondent / Plaintiff

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 17.10.2024 made in I.A.No.3 of 2024 in O.S.No.16 of 2024 on the file of Principal District Munsif Court, Tirunelveli, by allowing the Civil Revision Petition.

For Petitioner : Mr.K.Abiya

ORDER

The present Civil Revision Petition is preferred against the order made in I.A.No.3 of 2024 in O.S.No.16 of 2024 on the file of Principal District Munsif Court, Tirunelveli.



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2. The petitioner is the defendant in the above suit. The respondent / plaintiff filed a suit in O.S.No.16 of 2024 for declaration of title and for mandatory injunction. Pending suit, the respondent plaintiff took out an application in I.A.No.3 of 2024 for appointment of advocate commissioner to note down the physical features in the suit property, measure the same and find out if there is any encroachment made by the petitioner / defendant. Though the said application was resisted on the side of the revision petitioner, the same was allowed by the trial Court. Assailing the said order the present revision is preferred before this Court. \

3. Learned counsel for the revision petitioner would submit that there is a wall constructed in the suit property by the mother of the defendant in the year 1989. But the respondent / plaintiff has falsely stated that the defendant has encroached upon the said portion of the property. The revision petitioner has not encroached any of the plaintiff's property. The trial Court without considering the same allowed the application for appointment of advocate commissioner which will not serve any purpose to decide the dispute.



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4. On perusal of records, it is seen that the respondent plaintiffs sought for appointment of advocate commissioner to measure the property and to note down the physical features of the same. Since it is a suit for declaration of title and for permanent injunction, whether there is any encroachment made by the revision petitioner / defendant are not, can be ascertained only by measuring the same. Therefore, no prejudice would be caused to the revision petitioner. On the other hand it would be helpful to the Court to adjudicate the matter and to arrive at a fair conclusion. Therefore, there is no merit in the Civil Revision Petition.

5. Recording the same, this Civil Revision Petition is dismissed. However, liberty is given to the revision petitioner to file his objections to the report filed by the advocate commissioner, if any dissatisfaction is noted by the revision petitioner. No costs. Consequently, connected miscellaneous petition stands closed.

19.12.2024

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

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

ORDER
IN
C.R.P(MD)No.3185 of 2024
and
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