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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.858 of 2025

and

C.M.P(MD)No.4574 of 2025

G.Arulraja

...Petitioner/Petitioner/Defendant

Vs.

1.P.S.Pilomeena Angelin

2.P.S.Sweety Graceana Jesulin

Rep. by its power agent

P.S.Minnistarini Evangalin

...Respondents/Respondents/Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair order and decreetal order, dated 21.01.2025, made in IA No.5 of 2024 in O.S.No.72 of 2018 on the file of the Sub Court, Thoothukudi, and allow this Civil Revision Petition.

For Petitioner : M/s.S.Vashik Ali

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ORDER

The defendant in O.S.No.72 of 2018, on the file of the Sub Court, Tuticorin, has filed the present revision petition challenging the dismissal of his application for appointment of Advocate Commissioner.

2.The respondents herein have filed the above said suit for the relief of declaration of title and permanent injunction. When the suit was posted for defendant side evidence, the defendant has filed the said application for appointment of Advocate Commissioner to note down the physical features of the suit schedule property. The said application was dismissed by the trial Court. Challenging the same, the present revision petition has been filed.

3.According to the learned Counsel appearing for the revision petitioner, he has rented out the property in favour of one Jebarsan and the tenant has put up hollow blocks in the suit schedule property. Unless the Commissioner is appointed, the said fact cannot be brought to the notice of the trial Court.

4.A perusal of the trial Court order reveals that whether the plaintiff or the defendant is in possession of the suit schedule property cannot be found out using an application for appointment of Advocate Commissioner.



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5.I have considered the submissions made on either side and perused the materials available on record.

6.The plaintiff has filed the above said suit for the relief of declaration of title and permanent injunction. Therefore, the entire burden would be upon the plaintiff to establish his title and his possession over the suit schedule property on the date of the filing of the suit. Therefore, there is no necessity for the defendant to file an application for appointment of Advocate Commissioner to note down the physical features of the property. The trial Court has rightly dismissed the application.

7.Therefore, there are no merits in the revision petitioner. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

01.04.2025

Internet:Yes/No
Index:Yes/No
RJR



R.VIJAYAKUMAR, J.

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RJR

To

The learned Sub Judge,
Thoothukudi.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

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