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C.R.P(MD)No.68 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.68 of 2023
and
C.M.P(MD)No.332 of 2023

V.Tamilselvam

... Petitioner/1st Respondent/
1st Defendant

Vs.

1.V.Ravichandran
2.K.Nandakumar

...Respondents 1&2/Petitioners/
Plaintiffs

3.V.Chellaiah
4.V.Ganesan
5.V.Chockalingam

...Respondents 3to5/
Respondents 2to4/Defendants2to4

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order passed in I.A.No.2 of 2022 in O.S.No. 31 of 2022 dated 04.03.2022 by the learned District Munsif-cum-Judicial Magistrate, Thirumayam.

For Petitioner

:Mr.K.Baalasundharam
for M/s.R.Paranjothi

For R1 & R2

:Mr.G.Mathavan

For R3,R4 & R5

:No appearance



ORDER

This civil revision petition is preferred as against the docket order dated 04.03.2022 passed in I.A.No.2 of 2022 in O.S.No.31 of 2022 by the learned District Munsif-cum-Judicial Magistrate, Thirumayam.

2.According to the revision petitioner, the respondents 1 and 2 filed a civil suit in O.S.No.31 of 2022 before the District Munsif-cum-Judicial Magistrate, Thirumayam, for declaration and recovery of possession against the petitioner and his brothers.

3.During the pendency of the above suit, the respondents 1 and 2/plaintiffs filed an application in I.A.No.2 of 2022 for appointment of an Advocate Commissioner, with the revenue records to measure the property with the help of Surveyor and the Village Administrative Officer. The said application was allowed as ex-parte. Thereafter, the petitioner entered appearance and filed his written statement with detailed counter refuting the claim made by the respondents in I.A.No.2 of 2022. However, the trial Court without considering the objection made by the petitioner, passed a cryptic order without any reason for appointment of an Advocate Commissioner.



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4.On perusal of the records, it is seen that non-speaking order was passed by the learned trial Judge. The learned trial Judge ought to have dismissed in the order the necessity for appointment of Advocate Commissioner to elucidate the issue in dispute. Without giving any reason simply allowed the petition. Hence, the docket order passed in I.A.No.2 of 2022 in O.S.No.31 of 2022 by the learned District Munsif-cum-Judicial Magistrate, Thirumayam, is hereby set aside and the matter is remitted back to the Court below to re-appreciate the facts on records and pass a detailed speaking order, on merits and in accordance with law, within a period of one month from the date of receipt of a copy of this order.

5.With the above observation, this civil revision petition is allowed.
No costs. Consequently, connected miscellaneous petition is closed.

31.07.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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To

1.The District Munsif-cum-Judicial Magistrate,
Thirumayam.

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



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C.R.P(MD)No.68 of 2



K.GOVINDARAJAN THILAKAVADI, J.

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C.R.P(MD)No.68 of 2023
and
C.M.P(MD)No.332 of 2023

31.07.2023