

I.A.No.3/2022

in

A.S.No.3/2022

C/w

A.S.No.2/2023

D.D.19.12.2024:

Order Pronounced.

This application has been filed for appointment of Advocate Commissioner to measure the suit property to note down the physical features and the actual state of affairs on the ground and to file a report with plan.

2. In the affidavit accompanying petition, the petitioner has stated that the suit property is in their possession and it was never in the possession of the respondents and to prove that the Commissioner has to be appointed and for that purpose, this application has been filed.

3. Further according to the petitioner, as per the sale deed dated 20.03.1992 and 08.01.1996, the petitioner and his sons were in the possession of the suit property within the boundaries prescribed under the

sale deed and due to their possession they also claim adverse possession. Therefore according to the petitioner, Commissioner has to be appointed.

4. The respondent contended that the Commissioner cannot be appointed to note down the possession of the property and the petitioner ought to have filed the petition before the trial Court itself and if at all he intend to bring before the Court the actual physical features of the suit property as on date of suit this petition should have been filed at the time of filing of the suit and after altering the suit now the petitioner has filed this application to note down the physical features and possession of the suit property is untenable in law.

5. The perusal of the affidavit and petition clearly shows that the petitioner claims that he is in possession within the boundaries enumerated in the sale deed dated 20.03.1992 and 08.01.1996 and to

prove his possession alone, this application has been filed. It is the established principle of law that the commission cannot be issued to note down the possession of the property by the parties and thereby there is no merits in the application and the petitioner can prove his possession by other means and also prove his possession within the four boundaries of the above suit sale deed by other means. Hence, this petition is deserves to be dismissed.

6. In the result, this petition is dismissed. No cost.

Principal District Judge,
Perambalur.

