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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.07.2026**

CORAM

THE HONOURABLE MR JUSTICE S. SOUNTHAR

**C.R.P(MD).No.1694 of 2023
and C.M.P(MD).No.8447 of 2023**

1.Dharmalingam

2.Alagar

3.Manikandan

... Petitioners

Vs

1.Jayaraman

2.Kamaladevi

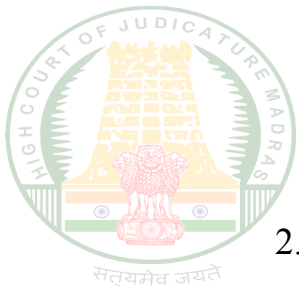
... Respondents

Prayer: Petition is filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order dated 03.01.2023 in I.A.No.72 of 2019 in O.S.No.166 of 2019 on the file of the District Munsif cum Judicial Magistrate Court, Thiruvidadaimaruthur, allow the civil revision petition.

For Petitioners	: Mr.AN.Ramanathan
For R1	: Mr.T.R.Subramanian
For R2	: No appearance

ORDER

This civil revision petition is filed challenging the order passed by the Trial Court appointing an Advocate Commissioner to measure the property with the help of qualified surveyor and file a report.



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2.The respondents herein filed a suit seeking bare injunction in respect of four items of properties against the petitioners. The petitioners herein filed a written statement and resisted the suit only with respect of item 1. According to the petitioners, they are also having right and possession over half of the property in item 1 and hence, according to them, the suit for bare injunction filed by the respondents in respect of the entire item 1 is deserved to be dismissed.

3.Pending suit, the respondents herein filed instant application seeking appointment of Advocate Commissioner to measure the properties. According to them, the petitioners/defendants are residing the suit property and they are making attempt to interfere with the possession of the respondents/plaintiffs. Therefore, the property was sought to be measured with the help of qualified surveyor. The said application was allowed by the Trial Court. Aggrieved by the same, the petitioners/ defendants have come before this Court.

4.The learned counsel appearing for the petitioners would submit that the respondents have not given any acceptable reason for measuring the suit property with the help of qualified surveyor and in a suit for injunction,



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appointment of Advocate Commissioner is unnecessary, as he cannot give any finding with regard to physical possession of the property.

5.The learned counsel appearing for the respondents/plaintiffs would submit that the petitioners/ defendants are adjacent land owners and without having any manner of right, they attempted to interfere with the possession of the plaintiffs. Therefore, if the property is measured with the help of surveyor, the same will help the Court to decide the controversy involved in the suit.

6.It is settled law Advocate Commissioner cannot give any findings with regard to physical possession of the property. The right and possession of the parties over the suit property shall be decided by the Court based on oral and documentary evidence to be let in by the parties. In case, there is any dispute with regard to localization of the property or identity of the property, the Advocate Commissioner may be appointed to measure the property and identify the same with the help of qualified surveyor. It is not the case of the respondents that there is a dispute with regard to the identity of the property. In the affidavit filed in support of the petition seeking appointment of Advocate Commissioner to measure the suit property, the respondents have



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not given any valid reasons. The Trial Court also, without giving any finding with regard to the necessity for measuring suit property, proceeded to appoint Advocate Commissioner. The Trial Court merely observed that the petitioners/defendants claimed possession over half of Item No.1 of the suit property and, therefore, held that it was desirable to have the suit property measured with the assistance of a qualified surveyor. The question whether the plaintiffs are in exclusive possession of the suit property or the defendants are in possession of half of the item No.1 of the suit property cannot be decided by local inspection by Advocate Commissioner. In such circumstances, absolutely, there is no necessity to appoint Advocate Commissioner, that too, in a suit for bare injunction. Therefore, the impugned order passed by the Trial Court calls for interference by this Court. Accordingly, the impugned order passed, in I.A.No.72 of 2019 in O.S.No.166 of 2019, by the learned District Munsif cum Judicial Magistrate, Thiruvidadaimaruthur, is hereby set aside and this Civil Revision Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes/No
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- To
1. The District Munsif cum Judicial Magistrate, Thiruvidaimarudur.
 2. The Section Officer,
VR Section, Madurai Bench of Madras High Court, Madurai.



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S. SOUNTHAR.J.

Rmk

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