



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2016

CORAM

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (MD) No.1662 of 2016

and

C.M.P. (MD) No.8115 of 2016

PALANIAPPAN

.. PETITIONER/PETITIONER/  
APPELLANT

Vs.

1 KASTHURI RAJAM

2 SHANMUGASUNDARAM

.. RESPONDENTS/RESPONDENTS/  
RESPONDENTS

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the order passed in I.A.No.7 of 2015 in A.S.No.57 of 2012 dated 27.07.2015 on the file of the learned Subordinate Judge, Kovilpatti and set aside the Fair and Decreetal order.

For Petitioner : Mr.V.Perumal

#### ORDER

This Revision is directed against the order passed by the Subordinate Court, Kovilpatti, in I.A.No.7 of 2015 in A.S.No.57 of 2012, dated 27.07.2015.

2. Heard the learned counsel appearing for the petitioner and perused the records.

3. O.S.No.72 of 2010 was filed by the first respondent before the District Munsif Court, Kovilpatti, against the petitioner and the second respondent for declaration and consequential permanent injunction. After contest, the suit came to be decreed on 01.02.2012. Aggrieved over the Judgment and Decree, the petitioner has preferred the appeal in A.S.No.57 of 2012, before the Subordinate Court, Kovilpatti.

4. The petitioner filed the application in I.A.No.7 of 2015 in <https://hccpcad.courts.gov.in/hccpcas/apps/appeals> in support of an Advocate Commissioner to note down the physical feature of the suit property.



5. The case of the petitioner is that he has been in possession and enjoyment of the suit property and also he has been paying taxes and to ascertain his possession, the Commissioner has to be appointed.

6. The Trial Court taking into consideration the prayer sought for in the suit and by observing that the first respondent has to prove his possession through the evidence, for which the Commissioner cannot be appointed, dismissed the petition.

7. It is settled law that a Commissioner cannot be appointed for collecting evidence for the parties and also to ascertain their possession. In such view of the matter, I do not find any perversity or illegality in the order impugned in this Revision.

8. In fine, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(As)

/True copy/

Sub Assistant Registrar

To  
The Subordinate Judge,  
Kovilpatti.

+1cc to Mr.V.Perumal Advocate SR.No.49275

pmu

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