



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2017

CORAM :

WEB COPY

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

C.R.P. (MD) .No.1606 of 2015  
and M.P.(MD) No.1 of 2015

R.Gopal ... Petitioner/ Petitioner / Appellant  
Vs.

1.A.Irulayee Ammal  
2.The Panchayat President,  
Thiruvannamalai Panchayat,  
Thiruvannamalai Post  
Srivilliputhur Taluk  
Virudhunagar District ... Respondents/Respondents/Respondents

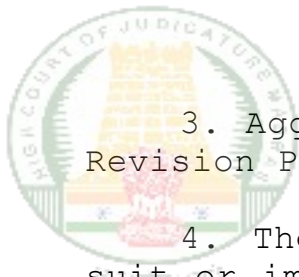
**Prayer :** Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.105 of 2014 in A.S.No.39 of 2009 on the file of the Sub-Court, Srivilliputhur dated 16.03.2015 and allow the Civil Revision Petition and thus render justice.

For Petitioner : No appearance

### ORDER

No representation for the petitioner. The learned counsel for the respondents is present and he would submit that the 1<sup>st</sup> respondent has filed the suit in the year 2006 for the relief of declaration and permanent injunction. The said suit was decreed in favour of the 1<sup>st</sup> respondent, against which, the revision petitioner filed an Appeal Suit in A.S.No.39 of 2009 on the file of the Subordinate Court, Srivilliputhur, dated 16.03.2015 .

2. Thereafter the petitioner filed an application in I.A.No.105 of 2014 for appointment of Advocate Commissioner, which was opposed by the respondents. The Appellate Court, after considering the contentions raised by both parties, held that there is no dispute between the parties in respect of the measurement of the suit property and admittedly, the suit Property is a vacant site. After the disposal of the suit, the petitioner has preferred an appeal in the year 2009. Without taking any steps for the past six years, he has filed the Interlocutory Appeal. That too, very belatedly and therefore, the application to appoint Advocate Commissioner is devoid of merits. Accordingly dismissed the application.



3. Aggrieved by the dismissal of the application, the present Revision Petitions is filed.

4. The revision petitioner has not taken any steps pending suit or immediately after the appeal. For appointment of Advocate Commissioner filing an application after six years of the appeal only indicates, he is interested in dragging on the proceeding. Hence, the appellate court has rejected the application.

5. On perusal of the records filed as typed set of papers, this court finds that in the suit for declaration and injunction having lost in the suit the revision petitioners had preferred appeal. Pending appeal, as an after thought he has filed the application for appointment of Advocate Commissioner. When there is no dispute regarding the identity of the property or regarding the measurement of the property the necessity to identify and note down the physical feature at this stage does not arise and therefore the Appellate Court has rightly dismissed the application. This Court finds no error in the impugned order.

6. Hence, the Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

Sub-Court,  
Srivilliputhur

+1 cc to Mr.C.Vakeeswaran, Advocate, SR.No.50971

+1 cc to Mr.L.Prabhu, Advocate, SR.No. 50828

**C.R.P. (MD) .No.1606 of 2015  
in M.P. (MD) No.1 of 2015  
07.04.2017**

SM/CP

MKV-RR-SAR 3/27.4.2017/2P-4C