



C.R.P.No.3081 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 29.09.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**C.R.P.No.3081 of 2022**  
**and**  
**C.M.P.No.16575 of 2022**

V.Kousalya

... Petitioner

VS

1.V.S.Arumugam

2.V.S.Kulandaivelusamy

... Respondents

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed in I.A.No.2 of 2019 in O.S.No.928 of 2015 by the learned 1<sup>st</sup> Additional District Munsif, Coimbatore, dated 02.08.2022.

For Petitioner : Mr.M.Kalyanasundaram  
for Mr.B.Venugopal

For Respondents : Mr.S.Sriram

**ORDER**



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The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the revision petitioner seeking appointment of Advocate Commissioner.

2. The respondents herein filed a suit in O.S.No.928 of 2015 for direction to the 4<sup>th</sup> defendant in the suit viz., Tahsildar, Perur Taluk, to demarcate the suit property and fix the southern boundary of the suit property and also for a permanent injunction restraining the 2<sup>nd</sup> and 3<sup>rd</sup> defendants therein from trespassing into the suit property or interfering with the respondents/plaintiffs peaceful possession and enjoyment of the suit property. The trial in the suit is already commenced and the evidence of the respondents/plaintiffs side was over on 31.07.2019. Thereafter, the present application in I.A.No.2 of 2019 has been filed by the revision petitioner/the 2<sup>nd</sup> defendant seeking appointment of Advocate Commissioner.

3. In the affidavit filed in support of the petition for appointment of Advocate Commissioner, the revision petitioner has stated that when the 1<sup>st</sup> respondent was examined as PW.1, he was unable to give correct numbers of



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the trees standing in the suit property and hence, the revision petitioner sought for appointment of Advocate Commissioner to inspect the suit property along with the help of photographer.

4. The said application came to be dismissed by the Court below by stating that the application for appointment of Advocate Commissioner was filed after completion of plaintiff's side evidence and object of application is only to collect evidence.

5. The learned counsel for the petitioner submitted that the respondents herein in the written statement filed in O.S.No.160 of 2015, the suit for injunction filed by the revision petitioner averred that they were ready to file an application for appointment of an Advocate Commissioner to demarcate the properties and having filed such a written statement, it is not open to the respondents to take a different stand opposing the application for appointment of Advocate Commissioner in the present suit filed by them.

6. The present suit in O.S.No.928 of 2015 is filed by the respondents



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herein with a prayer for direction to the 4<sup>th</sup> defendant therein to demarcate the suit property and fix the southern boundary of the suit property. If the revision petitioner succeed in the suit, the southern boundary of the suit property will be fixed by the 4<sup>th</sup> defendant therein.

7. Having regard to the timing of the application for appointment of Advocate Commissioner and averments found in the petition for appointment of Advocate Commissioner, I do not find any illegality or irregularity in the order passed by the Court below.

8. The learned counsel for the respondents/caveators made a request to the Court to issue a direction to the Trial Court to dispose of the suit within a time frame.

9. Having regard to the date of filing of the suit, this Court is inclined to issue a direction to the Court below to dispose the main suit, within a period of the six months from the date of receipt of a copy of this order.

10. In the result, the Civil Revision Petition is dismissed. No costs.



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Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No  
Speaking Order : Yes / No  
dm

To

The 1<sup>st</sup> Additional District Munsif,  
Coimbatore.



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**S.SOUNTHAR, J.**

dm

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**29.09.2022**