



WEB COPY

C.R.P(MD)No.1998 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.1998 of 2023
and
C.M.P(MD)No.10003 of 2023

1.Meenal

Represented by her son and Power Agent,
Ramu

2.Thangaraj

3.Manickam

4.Ramu

... Petitioners/Petitioners/
Plaintiffs

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Devakottai, Devakottai Taluk,
Sivagangai District.

3.The Sub-Collector,
Devakottai, Devakottai Taluk,
Sivagangai District.

4.Gracy

... Respondents/Respondents/
Defendants

Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order dated



17.04.2023 passed in I.A.No.6 of 2022 in O.S.No.64 of 2018 on the file of the learned District Munsif, Devakottai and set aside the same and consequently, allow the present civil revision petition.

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For Petitioners	:Mr.J.Anandkumar
For R1 to R3	:Mr.G.Suriyanath
	Additional Government Pleader

ORDER

This civil revision petition is filed against the fair and decreetal order dated 17.04.2023 passed in I.A.No.6 of 2022 in O.S.No.64 of 2018 by the learned District Munsif, Devakottai.

2.According to the revision petitioners, the above suit in O.S.No.64 of 2018 was filed by the petitioners/plaintiffs before the District Munsif, Devakottai, for declaration of title and for permanent injunction. During the pendency of the said suit, the revision petitioners have preferred an application in I.A.No.6 of 2022 for appointment of an Advocate Commissioner to inspect the suit property and note down the physical features with the help of surveyor, which was dismissed by the trial Court observing that the factum of possession and enjoyment of the property cannot be spoken by the Advocate Commissioner and therefore, there is no insist for appointment of Advocate Commissioner. Against which, the present civil revision petition is filed.



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3.The learned counsel appearing for the revision petitioners submitted that the application in I.A.No.6 of 2022 was filed by the petitioners to note down the encroachment made in the suit property and to prove the possession of the petitioners herein. However, the trial Court has erroneously dismissed the above application, in spite of the fact, the fourth respondent has not filed any counter to the petition filed by the petitioners herein.

4.Heard the learned counsel appearing for the revision petitioners and the learned Additional Government Pleader appearing for the respondents No.1 to 3 and perused the materials available on record.

5.An Advocate Commissioner cannot be appointed for collecting evidence. The possession of the suit property cannot be proved by the report of the Advocate Commissioner. Since it is a suit for declaration of title and for permanent injunction, the parties can prove their case only by letting in oral and documentary evidence and the Advocate Commissioner's report and plan would not help the Court to come to a fair decision.

6.Accordingly, this civil revision petition is dismissed and order dated 17.04.2023 passed in I.A.No.6 of 2022 in O.S.No.64 of 2018 by the learned



District Munsif, Devakottai, is confirmed. No costs. Consequently,
connected miscellaneous petition is closed.

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NCC:Yes/No
Index:Yes/No
Internet:Yes/No
To

- 1.The District Munsif,
Devakottai.
- 2.The District Collector,
Sivagangai District,
Sivagangai.
- 3.The Tahsildar,
Devakottai, Devakottai Taluk,
Sivagangai District.
- 4.The Sub-Collector,
Devakottai, Devakottai Taluk,
Sivagangai District.
- 5.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

Ns

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