



*C.R.P.(MD)No.3210 of 2023*

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DATED: 08.12.2023

CORAM:

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

**C.R.P.(MD)No.3210 of 2023**  
**and**  
**C.M.P.(MD)No.16554 of 2023**

Alagesan

... Petitioner/  
Petitioner

Vs.

1. Packiyam
2. The Government of Tamil Nadu  
through represented by the District Collector,  
Sivagangai District.
3. The Revenue Divisional Officer,  
Devakkottai,  
Sivagangai District.
4. The Tahsildar,  
Singampunari Taluk,  
Sivagangai District.

... Respondents/  
Respondents

**Prayer :** This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order in I.A.No.1 of 2023 in O.S.No.349 of 2019 on the file of the District Munsif cum Judicial



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Magistrate, Singampunari dated 31.10.2023 by allowing this Civil Revision Petition.

For Petitioner : Mr.V.Muthu Kamatchi

For R2 to R4 : Mr.J.John Rajadurai  
Government Advocate

### **ORDER**

The Civil Revision Petition is directed against the order passed in I.A.No.1 of 2023 in O.S.No.349 of 2019 dated 31.10.2023, on the file of the District Munsif cum Judicial Magistrate, Singampunari, dismissing the application filed under Order 26 Rule 10(3) C.P.C. for scrapping the Advocate Commissioner's report.

2. The first respondent/plaintiff has filed the suit in O.S.No.349 of 2019 to declare that the suit property is belonging to her and for permanent injunction restraining the revision petitioner/fourth defendant and the respondents 2 to 4/defendants 1 to 3 from constructing any house or from in any manner interfering with the first respondent/plaintiff's peaceful possession and enjoyment of the suit property and for mandatory injunction directing the Government authorities to issue patta and also to



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declare that the order passed by the third respondent/second defendant against the fourth respondent/third defendant is legally invalid. Pending suit, at the instance of the first respondent/plaintiff, an Advocate Commissioner was appointed and he was directed to inspect the property with the help of the Village Administrative Officer (VAO) and qualified surveyor after giving due notice to the revision petitioner/fourth defendant.

3. When the case is pending for trial, the above application in I.A.No.1 of 2023 came to be filed to scrap the Advocate Commissioner's report alleging that the Advocate Commissioner has not issued any notice to the revision petitioner/fourth defendant before visiting the property, that the Advocate Commissioner has not filed the surveyor's plan and photographs taken at the time of inspection and that the report has to be scrapped.

4. It is seen from the records that the Advocate Commissioner has filed his report as earlier as on 06.01.2021 along with rough plan. Admittedly, the revision petitioner/fourth defendant has not filed any objections to the Advocate Commissioner's report. Moreover, in the



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Advocate Commissioner's report, the Advocate Commissioner has specifically noted that after giving due notice to both the parties, he had inspected the suit property.

5. No doubt, as rightly pointed out by the learned counsel appearing for the revision petitioner, the learned trial Judge in the impugned order has observed that the Advocate Commissioner has not produced the surveyor's plan and photographs taken, but also observed that the Advocate Commissioner can be summoned and examined in this regard.

6. Considering the above facts and circumstances and also the fact that the revision petitioner/fourth defendant has not raised any objection for the past more than two years since the filing of the Advocate Commissioner's report, this Court is not inclined to accept the reason assigned for scrapping the Advocate Commissioner's report at this point of time. Hence, the impugned order dismissing the application cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.



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7. In the result, this Civil Revision Petition is dismissed. However, the revision petitioner is at liberty to summon and examine the Advocate Commissioner. Consequently, connected Miscellaneous Petition is closed.

No costs.

**08.12.2023**

NCC :yes/No  
Index :yes/No  
Internet:yes/No  
csm

**To**

1. The District Munsif cum Judicial Magistrate,  
Singampunari.
2. The District Collector,  
The Government of Tamil Nadu  
Sivagangai District.
3. The Revenue Divisional Officer,  
Devakkottai,  
Sivagangai District.
4. The Tahsildar,  
Singampunari Taluk,  
Sivagangai District.
5. The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

csn

**Order made in**  
**C.R.P.(MD)No.3210 of 2023**  
**and**  
**C.M.P.(MD)No.16554 of 2023**

**Dated : 08.12.2023**