



C.R.P.(PD).No.3190 of 2024

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

DATED : 09.08.2024

CORAM :

**THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.(PD).No.3190 of 2024  
and C.M.P.No.17050 of 2024

Arjunan

.. Petitioner

**Versus**

1. Ramasamy
2. R.Devaraj
3. Selvam
4. Anantharaj

.. Respondents

**Prayer :** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order, dated 24.06.2024 passed in I.A.No.3 of 2024 in O.S.No.442 of 2016 on the file of II Additional District Munsif Court, Erode and allow the Civil Revision Petition.

For Petitioner : Mr.S.Kaithamalai Kumaran

**ORDER**

This Civil Revision Petition arises against the order passed by the learned II Additional District Munsif, Erode in I.A.No.3 of 2024 in O.S.No.442 of 2016.



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2. The application in I.A.No.3 of 2024 was filed by the petitioner/third defendant. There is no dispute previously. Respondent Nos.1 and 2/plaintiffs have taken out an application for appointment of an Advocate Commissioner in I.A.No.1 of 2019 and an Advocate Commissioner also visited the suit schedule mentioned property and submitted a report. On the basis of the said report, the plaint was also amended and an additional written statement was also filed. The petitioner/third defendant, on the receipt of the Advocate Commissioner's report, also filed his objections and the same are on record.

3. When these proceedings have been completed, I.A.No.3 of 2024 was presented in order to appoint an Advocate Commissioner afresh to visit the suit schedule mentioned property, measure and fix boundaries of the property with the aid of title documents. The learned Trial Judge, after the receipt of a counter from the respondent Nos.1 and 2/plaintiffs, dismissed the application. Against which, the present Revision is filed.



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4. It is not in dispute that the Advocate Commissioner already submitted a report and the report is on record. In a suit, there cannot be multiple applications for appointment of Advocate Commissioners nor can there be multiple reports. In order to appoint second Advocate Commissioner, the condition precedent is that the report of the first Advocate Commissioner must be set aside. That not being the situation here, I do not find any error in the order of the learned II Additional District Munsif at Erode in dismissing the application in I.A.No.3 of 2024 on 24.06.2024.

5. At this stage, Mr.Kaithamalai Kumaran, learned Counsel for the civil revision petitioner/third defendant would submit that he may be permitted to file an application to reissue the warrant to the same Advocate Commissioner and seek for the relief sought for in this application in the application for reissue. The position of law relating to the appointment of second Advocate Commissioner does not hold good when it comes to reissue of warrant to the same Advocate Commissioner. The Court is always empowered, in case it finds any defects in the original report filed by the Advocate Commissioner, to reissue of warrant to the same Advocate



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Commission to rectify the said defects. Therefore, if Mr.Kaithamalai Kumaran's client finds it necessary, they are entitled to file that application for reissue.

6. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.08.2024

Index : yes/no  
Speaking order/Non-speaking order  
Neutral Citation : yes/no  
grs

To

The II Additional District Munsif,  
Erode.



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**V.LAKSHMINARAYANAN, J.**

grs

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