



C.R.P. (MD).No.1381 of 2019

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 24.04.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

C.R.P.(MD)No.1381 of 2019

and

M.P(MD) No.7376 of 2019

U.Gopalakrishnan

... Petitioner/Petitioner/Plaintiff

-vs-

1. Hussain @ Petchimuthu

2. Valliammal (died)

... Respondents/Respondents/  
Defendants

3. Saroja

4. Shanmugasundaram

... Respondents

(Respondents 3 and 4 are brought on record as Legal Heirs of the deceased 2<sup>nd</sup> respondent vide order of this Court, dated 11.03.2024, made in C.M.P(MD) No.2466 of 2024 in C.R.P(MD) No.1381 of 2019).

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 03.04.2019 in I.A.No.892 of 2018 in O.S.No.290 of 2010 on the file of the District Munsif Court,



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Kovilpatti.

For Petitioner : Mr.S.Ramesh

For R1 : Mr.G.Gomathi Sankar

For R3 and R4 : No appearance

### **ORDER**

The present Civil Revision Petition has been filed by the plaintiff in O.S.No.290 of 2010, on the file of the District Munsif Court, Kovilpatti.

2. The said suit has been filed for the relief of declaration of title and recovery of possession. At the instance of the plaintiff, an Advocate Commissioner was appointed and he had filed a report on 16.03.2012. The plaintiff had promptly filed his objection on 22.03.2012. Raising such objection with regard to the report and plan submitted by the Advocate Commissioner, the present application has been filed by the plaintiff in I.A.No.892 of 2018 seeking to reissue the warrant to the same Advocate Commissioner on the ground that he has erroneously noted down certain measurements relating to the suit schedule property which are more essential for the proper adjudication of the suit. The said application has been dismissed. Challenging the same, the present Civil Revision Petition has been



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filed.

3. According to the learned counsel appearing for the revision petitioner, the Advocate Commissioner has not properly measured the suit schedule property, especially, in the light of the fact that the suit has been filed with a prayer for recovery of possession after removing the encroachments made by the second defendant.

4. Per contra, the learned counsel appearing for the first respondent had contended that the present application has been filed to reissue the warrant six years after the filing of the Commissioner's Report and after the evidence of D.W.1 was closed.

5. I have carefully considered the submissions made by the learned counsel for the petitioner and the learned counsel for the first respondent.

6. The Advocate Commissioner has filed a report on 16.03.2012 and the plaintiff has filed his objection on 22.03.2012. No proper explanation has been submitted on the side of the plaintiff for filing the application for re-issuance of warrant to the same Advocate Commissioner after a period of six



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years. That too, after the examination of D.W.1 was over. Therefore, the trial Court had rightly dismissed the said application on the ground that the plaintiff is attempting to drag on the proceedings. There are no merits in the Civil Revision Petition.

7. Accordingly, this Civil Revision Petition stands dismissed. However, the Trial Court is directed to consider the objections raised by the plaintiff with regard to the Advocate Commissioner's Report while adjudicating the suit. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

**24.04.2024**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
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To  
1. The District Munsif Court,  
Kovilpatti.



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**R.VIJAYAKUMAR,J.**

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