



**C.R.P(MD)No.2252 of 2024**

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

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**DATED : 03.10.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**C.R.P(MD)No.2252 of 2024**  
**and**  
**C.M.P(MD)No.11561 of 2023**

B.Dharma Bai

... Petitioner /  
Petitioner /  
Plaintiff

Vs.

1.Ramani

Kumar (Died)

2.T.Selvam @ T.Singaravelu

... Respondents /  
Respondents /  
Defendants

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed by the Additional District Munsif Court, Thanjavur in I.A.No.297 of 2023 in O.S.No.254 of 2018 dated 16.06.2023.

For Petitioner : Mr.N.Tamilmani

For Respondents : No Appearance



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## **ORDER**

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The plaintiff in O.S.No.254 of 2018 on the file of Additional District Magistrate, Thanjavur is the revision petitioner herein. The respondents have been served but they have not chosen to enter appearance. Their names are printed in the cause list.

2.The petitioner filed I.A.No.297 of 2023 for appointing an Advocate Commissioner. It was dismissed vide order dated 16.06.2023. Challenging the same, this Civil Revision Petition came to be filed.

3.The learned counsel for the petitioner points out that the present application is the second petition for appointment of an Advocate Commissioner. Along with the plaint, the plaintiff had filed an Interlocutory Application for appointment of an Advocate Commissioner and it was dismissed. The plaintiff did not question the same. But after filing of the suit, a road appears to have been formed in the vicinity. The petitioner's specific case is that after the formation of the road, the defendants has further extended their encroachment. If the suit has been one for bare injunction, then the plaintiff cannot ask for



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appointment of an Advocate Commissioner since that may amount to gathering of evidence regarding possession. That is not the case here. The suit is for recovery of possession. Therefore, appointment of an Advocate Commissioner will not cause any prejudice to the respondents.

4.The petitioner's case that appointment of Advocate Commissioner has become necessary in view of the formation of the road is also having considerable force. I am satisfied that the report of the Advocate Commissioner would definitely help the Court to elucidate the points in dispute. In this view of the matter, the impugned order is set aside.

5.This Civil Revision Petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**03.10.2024**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**G.R.SWAMINATHAN, J.**

MGA

To

The Additional District Munsif Court,  
Thanjavur.

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