



C.R.P.(MD)No.2555 of 2024

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

Dated : 19.10.2024

CORAM

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

C.R.P.(MD)No.2555 of 2024

and

C.M.P.(MD)No.14803 of 2024

R.M.Ponnusamy

... Petitioner / Defendant

Vs.

G.Thangaraj

... Respondent / Plaintiff

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned fair and decreetal order passed in I.A.No.9 of 2023 in O.S.No.1498 of 2012 dated 23.08.2024 on the file of the Principal District Munsif Court, Tiruchirappalli.

For Petitioner : Mr.D.Kirubakaran,  
For M/s.B.Saravanan Associates.

\* \* \*

**ORDER**

Heard the learned counsel for the revision petitioner.



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2.The revision petitioner is figuring as the defendant in O.S.No.1498 of 2012 on the file of the Principal District Munsif Court, Tiruchirappalil. It is a suit for declaration and permanent injunction. The petitioner herein filed I.A.No.9 of 2023 for scrapping the report of the advocate commissioner filed on 18.03.2022 along with sketch. The I.A. was dismissed vide order dated 23.08.2024. Challenging the same, this civil revision petition came to be filed.

3.The learned counsel for the revision petitioner reiterated all the contentions set out in the memorandum of grounds of this civil revision petition. He submitted that the advocate commissioner had submitted his report even without properly measuring the revision petitioner's property with reference to his sale deed.

4.It is seen that an advocate commissioner was earlier appointed in the case. When the matter was posted “for orders”, it appears that the Court below *suo motu* re-opened the proceedings and appointed a new advocate commissioner to inspect the suit property with a qualified surveyor to measure the suit property. Challenging the same, the petitioner herein filed C.R.P.(MD)No.1316 of 2022. It was dismissed vide order dated 11.01.2023.



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5.The advocate commissioner was appointed on 03.03.2022. He had submitted his report on 18.03.2022. The civil revision petition had come for final disposal on 11.01.2023. The advocate commissioner's report was very much available then. In fact, there is a reference made to the report in the order dated 11.01.2023 in C.R.P.(MD)No.1316 of 2022. Nothing stopped the petitioner herein to point out the defects now urged before me when C.R.P.(MD)No.1316 of 2022 was argued. It is not open to the petitioner to argue his case in installments. In fact, when the advocate commissioner went for spot inspection, the revision petitioner did not bother to be present. If he had been present along with his advocate and also given his memo of instructions, the grievance now projected would not have arisen at all.

6.The learned counsel for the revision petitioner would state that since he has filed C.R.P.(MD)No.1316 of 2022 by then, he did not choose to be present when the inspection took place.

7.This approach cannot be appreciated. Nothing stopped the petitioner from participating in the inspection without prejudice to his contention to pursue C.R.P.(MD)No.1316 of 2022. The petitioner had missed the bus. The suit is of the year 2012. The Court below had rightly taken the view that



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entertaining the revision petitioner's request would lead to delaying the final adjudication of the suit.

8.Interference is not warranted and the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**19.10.2024**

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

The Principal District Munsif Court,  
Tiruchirappalli.



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**G.R.SWAMINATHAN, J.**

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