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C.R.P.No.208 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2025

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**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**C.R.P.No.208 of 2024**

**&**

**C.M.P.No. 985 of 2024**

M. Manavalan

...Petitioner

Vs.

D. Jamuna

...Respondent

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 11.10.2023 passed in IA.No.4 of 2023 in OS.No.235 of 2019 on the file of the Sub Court, Gudiyattam, Vellore District.

For Petitioner : Mr. K.Govi Ganesan

For Respondent : Mr. K.A.Ravindran



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## **ORDER**

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The above civil revision petition is filed by defendant challenging the dismissal of his application seeking appointment of an Advocate Commissioner to note down the physical features of the suit property with the help of VAO and Taluk surveyor in IA.NO.4 of 2023 in OS.No.235 of 2019. The brief facts are as follows.

2. The respondent / plaintiff had filed the suit OS.No.235 of 2019 on the file of the Sub Court, Gudiyattam, seeking the relief of declaration of his title to the suit property and for permanent injunction. The petitioner had also filed his written statement and the matter was posted for defendant's side evidence. Thereafter, the defendant had come forward with the application in question.

3. In the affidavit filed in support of the said application, the petitioner had stated that he is in enjoyment of the property which he had taken on lease. The petitioner would submit that he is in



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possession and enjoyment of the property till date and the respondent / plaintiff is now attempting to harass and defame him. He would submit that the respondent is guilty of burking facts, which would be proved by the Advocate Commissioner. Therefore, he sought for the appointment of an Advocate Commissioner to locate the property and note down the physical features. Once the Advocate Commissioner is appointed and report submitted it would reduce the evidence to be let in the case.

4. The respondent / plaintiff filed a counter inter alia contending that the petition is nothing but an attempt to collect evidence. The respondent has filed the documents which would clearly establish the fact that she is the owner of the property. Further, there is no dispute regarding the identity of the property or the physical features, the survey number, extent or the nature of the property and in these circumstances there was no necessity to appoint an Advocate Commissioner. The suit has been filed in the year 2019 and after chief examination of PW1, nearly a year later the application has been



moved. Therefore, the respondent sought to have the petition dismissed.

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5. The learned Trial Judge after hearing the parties and looking into the evidence on record came to the conclusion that the attempt of the petitioner is only to collect evidence and for which purpose he seeks to take the assistance of an Advocate Commissioner. Therefore, the application was dismissed.

6. Aggrieved by the same, the petitioner is before this Court.

7. Heard the learned counsels on the either side and perused the records.

8. The petition has been filed to identify and locate the property and note down the physical features. The property has been described in great detail in the schedule to the plaint. The defendant has filed a written statement in which it is his case that he is in possession of the



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suit property in which he is carrying on cultivation. Therefore, from this admission it is clear that the petitioner / defendant is also claiming a right to the suit property.

9. Nowhere in the written statement has the petitioner contended that the suit property has not been properly described as a result of which it cannot be located. The petitioner has to establish his case through his evidence and not by relying upon the report of the Advocate Commissioner.

10. Therefore, I see no reason to reverse the order passed by the learned Trial Judge. The Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

**24.03.2025**

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Internet : Yes/No  
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The Sub Court,  
Gudiyattam,  
Vellore District.

**P.T. ASHA, J,**



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**24.03.2025**