



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.06.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

C.R.P.No.335 of 2024 and

C.M.P.No.1560 of 2024

P.Narayanasamy

... Petitioner

Vs.

K.Chinnasamy

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.1 of 2019 in O.S.No.240 of 2019 by the Principal Subordinate Court, Hosur, dated 17.02.2023.

For Petitioner : Mr.Gowwtham Thelak.V.B.

For Respondent : Mr.R.Bharath Kumar

ORDER

The Revision petitioner is the plaintiff in a suit for declaration and injunction. The petitioner filed an application in I.A.No.1 of 2019 for appointment of an Advocate Commissioner to inspect the suit property and to file a report. The said application was dismissed by the trial Court holding that the plaintiff cannot seek appointment of an Advocate Commissioner to collect evidence.



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2. I have heard the learned counsel for the petitioner and the learned counsel appearing for the respondent. I have also gone through the pleadings in the suit as well as the Interlocutory Application and the impugned order passed by the trial Court.

3. At the outset it is to be noted that the respondent / defendant has not even chosen to file counter to I.A.No.1 of 2019 seeking appointment of an Advocate Commissioner. The suit is one for declaration and mandatory injunction. In order to assist the Court in adjudicating the dispute, it would be proper and necessary for the trial Court to ascertain the factual position on ground and only in this regard the petitioner/plaintiff has sought for appointment of an Advocate Commissioner. The nature of the suit as well as the averments made in the affidavit clearly points to the fact that it is not an exercise in collection of evidence.

4. In view thereof, I am inclined to set aside the order of the trial Court. Accordingly, the order dated 17.02.2023 in I.A.No.1 of 2019 in O.S.No.240 of 2019 passed by the Principal Subordinate Court, Hosur is set aside. The Revision is allowed. The trial Court is directed to appoint an



Advocate Commissioner to inspect the suit property with the assistance of the Taluk Surveyor and file a report. The parties are at liberty to file objections to the said report and during trial, it shall also be open to either of the parties to examine the Advocate Commissioner, if necessary. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2025

Speaking Order/Non-speaking Order

Index : Yes / No

Neutral Citation : Yes / No

vum

To

The Principal Subordinate Court, Hosur.



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vum

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