



C.R.P.No.1144 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.1144 of 2025

C.M.P.No.6729 of 2025

1.M.Kamaraj

2.K.Vasanth Kamatchi

3.K.Bhavani

4.K.Rajeshwari

...Petitioners

Vs

1.The Assistant Commissioner
Hindu Religious and Charitable Endowment Board
Chengalpattu
Chengalpattu District.

2.The Executive Officer
Arulmigu Vembadi vinayagar Temple
Muttukadu, Thiruporur Taluk,
Chengalpattu District.

...Respondents

PRAYER :- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleased to set aside the order passed by the Additional Subordinate Judge, Chengalpattu in I.A.No.4 of 2023 in O.S. No.16 of 2023 on 18.12.2024 by allowing this CRP.



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For Petitioners : M/s.A.Sumathy
For Respondents : Mr.N.Muthuvel (For R1 & R2)
Government Advocate

ORDER

Challenging the order passed by the learned Additional Subordinate Judge, Chengalpet, in rejecting the application filed by the plaintiffs for appointing an Advocate Commissioner to measure the suit property, identify the boundaries and file a detailed report, the plaintiffs are before this Court.

2.The petitioners/plaintiffs had filed the suit O.S.No.16 of 2023 on the file of the Subordinate Court, Chengalpattu for a permanent injunction. The plaintiffs claim a title to the property on the basis of an assignment given by the Government to the plaintiffs/petitioners. It appears that the plaintiffs have also executed power of attorney and settlement deeds in respect of the above property in favour of one Paneerselvam on 10.04.2000 and the said Paneerselvam had executed a registered sale deed dated 12.03.2001 in favour of the second plaintiff in respect of 4 cents of land. The first plaintiff have executed a registered



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settlement deed dated 29.01.2007 in respect of 7 cents in favour of the second petitioner. That apart the second petitioner is already in occupation and possession of the extent of 7 cents. Therefore, the second petitioner had become the owner of the entire extent of 18 cents which had been originally assigned. She had executed a settlement deed in favour of her son in respect of this entirety. The petitioners had made a request for issuance of patta which is pending on the file of the District Collector, Chengalpattu. It is their contention that the second respondent had attempted to trespass into the suit property along with their henchmen and the same was resisted. The second respondent had left the property threatening to come back. Once again in the first week of January 2023, the second respondent made another attempt which was also unsuccessful. Therefore, the petitioners had come forward to file the suit for injunction.

3. Pending the suit, the petitioners have come forward with the impugned petition seeking to appoint an Advocate Commissioner. The reason for appointing an Advocate Commissioner is to show the attempts of trespass that has been made by the second respondent and it is the contention of the petitioners that to bring out the true facts an



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appointment of Advocate Commissioner is necessary to measure the suit property, identify the boundaries, take photographs and file a report.

4.The second respondent had resisted the said application contending that the lands in S.No.82/2B2 lies to the east of the survey numbers belonging to the Arulmigu Vembadiamman Kovil, Muttukadu Village, Tiruporur and is covered under patta No.3. After the acquisition of their lands in S.No.82/2A1, the petitioners are attempting to trespass into S.No.82/2B2 owned by the second respondent temple and attempted to put up a temporary structure without the permission of the HR and CE department. The respondents would further submit that the eastern boundary limits was given covering the temple land of Arulmighu Vembadi Amman Koil comprised in S.No.82/2B2.

5.In fact, it is the contention of the respondents that already after notice to the petitioners and similar trespassers a survey was conducted in the presence of the respective parties and it was confirmed that petitioners and others had trespassed into the property of the second respondent temple. Except for the plaintiffs, the other trespassers have requested for lease of the lands and agreed to pay the damages for use and occupation.



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Therefore, the respondents would submit that the present application is totally misconceived.

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

7.The petitioners who have come to Court seeking a bare injunction stating that they are in occupation of a particular extent of land described as a suit property are bound to prove their case. They cannot seek to utilise the services of an Advocate Commissioner to identify their property by identifying the boundaries, taking photographs and filing the report with sketch. This is nothing but collection of evidence for the case. In the instant case, it is also seen that the respondents have already undertaken the exercise of surveying and measuring the property in the presence of the petitioners. This fact has been suppressed by the petitioners. The trial Court has rightly rejected the request of the petitioners and I see no reason to interfere with the same.

8.The Civil Revision Petition is accordingly dismissed. No costs.



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Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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To

- 1.The Assistant Commissioner
Hindu Religious and Charitable Endowment Board
Chengalpattu
Chengalpattu District.
- 2.The Executive Officer
Arulmigu Vembadi vinayagar Temple
Muttukadu, Thiruporur Taluk,
Chengalpattu District.
- 3.The Additional Subordinate Judge, Chengalpattu.



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P.T.ASHA, J,

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