



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.08.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

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CRP.No.1667 of 2022
and CMP. No.8283 of 2022

1.(Minor) A.Ashok Kumar
2.(Minor) A. Mohan Raj
Minors represented by mother Natural
Guardian Rukmani

... Petitioners

Vs.

1.M.Elumalai
2.V.Elumalai
3.E.Rajesh
4.G.Venkatesan
5.M.Boobathi
6.Jayakumar
7.Kuppan
8.S.Sudhakar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair order and decretal order of learned Subordinate Judge, Arani, Thiruvannamalai District in I.A. No.197 of 2019 in O.S. No.170 of 2019 dated 07.10.2020.

For Petitioners : Mr.C.Venkatesan

For Respondents : Mr.V.R.Appaswamee
for R1 to R5 & R8
No Ready in Notice for R6 & R7

ORDER



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The plaintiffs in a suit for damages, in respect of alleged felling of trees by the defendants, have sought for appointment of an Advocate Commissioner in the year 2019. The said Application has been dismissed by the Trial Court on 07.10.2020.

2. The learned counsel for the petitioners would specifically invite my reference to the plaint, written statement averments as well as the counter affidavit filed by the contesting respondents in the Commissioner Application, where there is a specific statement by the respondents 2 to 5 that the entire A schedule property should be inspected by a ground Surveyor and not B schedule property alone, despite the same, the Trial Court has dismissed the Application, stating that the Commissioner cannot be appointed to ascertain the damages caused.

3. In view of the fact that the defendants have objected to the very existence of the trees in the suit property, it would be in the interest of both parties, if the Court has the valuable assistance of the report of neutral person, by way of Commissioner's report to inspect the Schedule A as well as Schedule B property along with a competent Valuer who is conversant



the valuation of trees and whose assistance shall be availed of by the learned Advocate Commissioner appointed by the Trial Court.

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4. In the light of the above, this Civil Revision Petition is allowed with the following manner:-

(i) The order in I.A. No.197 of 2019 in O.S. No.170 of 2019 passed by the learned Subordinate Judge, Arani, Thiruvannamalai District dated 07.10.2020 is set aside.

(ii) The Trial Court shall appoint an Advocate Commissioner to inspect A schedule and B Schedule properties and note down the physical features of both the items of properties and point out whether there has been any trees or atleast any indication of tress in the said items of the properties. If there is possibility of ascertaining the existence of the trees and the age as well as the value of the trees, then the Commissioner shall take the assistance of the competent Surveyor and through him, assess and file a report regarding the same and the said report of the expert is also to be annexed to the report of the Advocate Commissioner. The entire exercise shall be carried out within a period of six (6) weeks. It shall be open to the

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respondents to file objections of the Advocate Commissioner's report, if any, if deemed necessary.

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5. It is brought to my notice that the said suit in O.S. No.197 of 2019 pending before the Subordinate Judge, Arani, Thiruvannamalai District was also transferred to Sub Court, Polur and re-numbered as O.S. No.385 of 2022 and considering the suit is of the year 2019, I direct the Trial Court viz., Sub Court, Polur to dispose of the same, within a period of four (4) months after the receipt of the Commissioner's report. Consequently, connected Miscellaneous Petition is closed. No costs.

20.08.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

rkp

To

1. The Subordinate Judge, Arani, Thiruvannamalai District.
2. The Sub Judge, Polur.

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