



WEB COPY

C.R.P.(PD) No.1328 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD) No.1328 of 2025
and CMP.No.7847 of 2025

Devi

... Petitioner

Vs.

K.Kumari

... Respondent

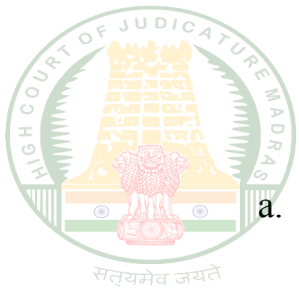
Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to issue a direction to set aside the order dated 27.01.2025 passed by the District Munsif cum Judicial Magistrate Judge at Thiruporur in I.A.No.1 of 2023 in O.S.No.174 of 2023

For Petitioner : Ms.S.Vennila

ORDER

The plaintiff, challenging the dismissal of the application in I.A.No.1/2023 seeking appointment of Advocate Commissioner, is before this Court in the present revision petition.

2. The brief facts which have given rise to this civil revision petition are as follows :

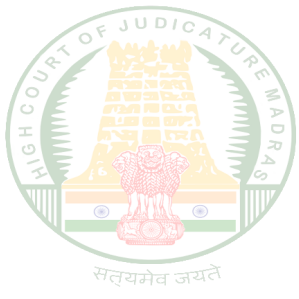


WEB COPY



C.R.P.(PD) No.1328 of 2023

- a. The plaintiff/revision petitioner has filed the suit O.S.No.174/2023 on the file of District Munsif, Chengalpattu, seeking a relief of permanent injunction in respect of property measuring 311 sq.mtr., comprised in Survey No.202/6 in Kelambakkam Village, Thiruporur Taluk, consisting of a land and house.
- b. According to the plaintiff, the property in question belonged to one Pichainathan, in whose name the revenue records stood. The plaintiff is the daughter of Pichainathan and on his demise on 14.04.1990, she had inherited the said property, and had been in possession and enjoyment of the same.
- c. It is the plaintiff's contention that the defendant, who is the daughter of a stranger, and in no way connected with the suit property, has been interfering with the plaintiff's peaceful possession and enjoyment of the same. Hence, she has come forward with the above suit.
- d. The defendant had filed the written statement *inter alia* denying the title of the plaintiff to the property in question. The defendant would submit that she had not disturbed the plaintiff's possession and that she resides in her property, while the plaintiff resides in her property.



WEB COPY

C.R.P.(PD) No.1328 of 2023



The defendant would further submit that she had already given a petition to the Tahsildar, Tiruporur Taluk, to measure and survey the property comprised in S.No.202/4, and the surveyor had also visited the property, measured the property and put up boundary stones demarcating the property. The defendant would also plead that a similar application for measuring and fixing the boundary stones had also been given by the plaintiff as well, but this fact has been suppressed by the plaintiff.

- e. That being the case, the plaintiff has come forward to file I.A.No.1/2023, to appoint an Advocate Commissioner to inspect and measure the schedule property, note down the physical features with the help of a Taluk Surveyor and file a report with sketch and plan.

3. The learned District Munsif cum Judicial Magistrate, Thiruporur, by order dated 27.01.2025, has dismissed the said I.A.,

4. This Court perused the materials records. It appears that the plaintiff has simply sought the said relief. The reason as to why the plaintiff requires the assistance of an Advocate Commissioner has not been spelt out



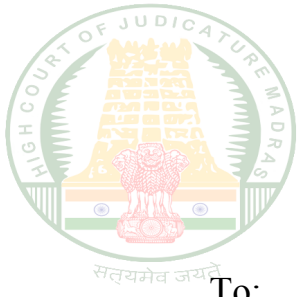
WEB COPY

in the affidavit filed in support of the said petition. Further, from the perusal of the written statement, it appears that the Taluk Surveyor had already inspected the properties of both the plaintiff and the defendant, and demarcated the same. Therefore, it is evident that the revision petitioner/plaintiff has filed this application only to gather evidence. The defendant had categorically denied that he had interfered with the plaintiff's possession's in the suit property. Therefore, it for the plaintiff to prove the cause of action. Further, in a suit for bare injunction, an appointment of Advocate Commissioner to note down the physical features etc., is only an attempt to gather evidence. Therefore, the learned District Munsif cum Judicial Magistrate, Thiruporur, has rightly rejected the said I.A., filed by the plaintiff/revision petitioner, and I see no reasons to hold otherwise.

5. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.03.2025

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes / No
ds



C.R.P.(PD) No.1328 of 2022

To:

WEB COPY

- 1.The Principal District Munsif cum Judicial Magistrate
Thiruporur.
- 2.The Section Officer
VR Section, High Court, Madras.



WEB COPY



C.R.P.(PD) No.1328 of 2025

P.T. ASHA, J.

ds

C.R.P.(PD) No.1328 of 2025

28.03.2025