



CRP.No.4802 of 2025 and CMP.No.24246 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.4802 of 2025

and

CMP.No.24246 of 2025

1. Palaniammal
 2. V.Eswaramurthy
 3. S.Jaganathan
- ... Petitioners / Petitioners / Plaintiffs

Versus

1. The State Represented through
The District Collector, Tiruppur District,
Tiruppur - 641 662.
2. The District Revenue Officer,
Tiruppur District, Tiruppur - 641 662.
3. The Tahsildar, Palladam Taluk,
Palladam, Tiruppur District - 641 662.
4. P.Ashok Kumar

... Respondents / Respondents / Defendants

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.02.2025 made in I.A.No.4 of 2024 in O.S.No.47 of 2024 on the file of the Sub - Ordinate Judge, Palladam.



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For Petitioners

: Ms.R.Revathy

For R1 to R3

: Mr.D.Gopal,
Government Advocate

ORDER

Unsuccessful plaintiffs have preferred the present Civil Revision Petition.

2. The suit in O.S.No.47 of 2024, on the file of the Sub Court, Palladam, was filed against the following defendants:

- (i) The District Collector, Tiruppur District / first defendant,
- (ii) The District Revenue Officer, Tiruppur District / second defendant,
- (iii) The Tahsildar, Palladam Taluk, Tiruppur District / third defendant
- (iv) and one P.Ashok Kumar / fourth defendant

The suit was filed seeking a declaration that the suit schedule property belongs exclusively to the plaintiffs, and for a permanent injunction restraining the defendants, his men, agents etc., from interfering with the plaintiff's peaceful possession and enjoyment of the plaint second schedule property, including by removing the iron gate situated therein and to declare



the show cause Notice given by the land revenue inspector Karadivaavi sub division Palladam Taluk on 18.02.2023, notice given by the third respondent on 05.01.2024 and Emergent circular given by first defendant on 06.02.2024 are all null and void. The defendants filed their written statement, and necessary issues were framed. At that stage, the plaintiffs filed an application in I.A.No.4 of 2024 in O.S.No.47 of 2024 under Order 26 Rule 9 of the CPC, seeking the appointment of an Advocate Commissioner. Upon hearing either side, the Court below, *vide* order dated 19.02.2025, dismissed the application on the ground that there is no specific reason assigned for appointing an Advocate Commissioner and that the issues involved between the parties should be decided based on the evidence to be let in by both sides. Aggrieved over the same, the revision petitioners / plaintiffs have filed the present Civil Revision Petition.

3. The learned counsel appearing for the revision petitioners would submit that the Court below failed to note that in order to decide the issues involved in the suit, it is both proper and necessary to appoint an Advocate Commissioner. Such appointment is essential to arrive at a conclusion regarding the character and nature of the suit property, as the Advocate



Commissioner could inspect the property along with the relevant revenue records. It was further submitted that the case put forth by the fourth defendant can be effectively, disproved only through the appointment of an Advocate Commissioner.

4. It is seen from the records that the plaintiff has filed an affidavit in support of the petition in I.A.No.4 of 2024, seeking appointment of an Advocate Commissioner. In the affidavit, it has been stated that the plaintiffs are in continuous possession and enjoyment of the property, and that if the Court below appoints an Advocate Commissioner to inspect the suit schedule property, it would assist the Court in determining the plaintiffs' rights, possession, and lawful title over the second item of the suit schedule property. It has also been stated that the balance of convenience is in favour of the plaintiffs, and that if the petition is not allowed, irreparable injury would be caused to the plaintiffs. However, on perusal of the petition, it is seen that no specific reason assigned as to why the appointment of an Advocate Commissioner is necessary or how it would assist the Court in deciding the issues involved between the parties. Further, it is seen from the records that the dispute in this case pertains to the second item of the suit



schedule property. It is not in dispute that there exists a pathway over the said property, however, whether the pathway is a "Vandi Pathi" as claimed by the fourth defendant, or whether it is under the exclusive possession of the plaintiffs, is a matter to be decided.

5. It is well settled that an Advocate Commissioner should not be appointed to gather evidence to prove the case of the parties. Since the parties should prove their case by letting in legally acceptable evidence and the report of the Commissioner can only aid the Court in evaluating the evidence to come to just conclusion (*Krishnamurthy, T.K. vs. Tamil Nadu Water and Drainage Board*, reported in *2006(5) CTC 178*). It is to be noted that the factum of possession cannot be ascertained by Commissioner, as the same could be proved by letting in oral and documentary evidence by the parties before the Court.

6. In view of the above, there is no reason to interfere with the order passed in I.A.No.4 of 2024 in O.S.No.47 of 2024, dated 19.02.2025 on the file of the learned Sub Court, Palladam.



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7. Accordingly, this Civil Revision Petition is dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

The learned Sub Court, Palladam.



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M. JOTHIRAMAN, J.

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