



WEB COPY

CRP.No.2363 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.2363 of 2025

and

C.M.P.No.13659 of 2025

M.Ramalingam

... Petitioner

Vs.

1.K.Manivannan

2.M.Vijayalakshmi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and final order dated 24.02.2025 made in I.A.No.03 of 2023 in O.S.No.206 of 2024 on the file of the learned Subordinate Judge, Kodumudi, Erode District.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.A.Sundaravadhanan



ORDER

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Heard Mr.M.Guruprasad, learned counsel appearing for the revision petitioner and Mr.A.Sundaravadhanan, learned counsel appearing for the respondents.

2. The petitioner is on revision, aggrieved by the order dated 24.02.2025 passed by the learned Subordinate Judge, Kodumudi, in I.A.No.3 of 2023 in O.S.No.206 of 2024.

3. The respondents/plaintiffs have taken out an application seeking appointment of Advocate Commissioner at the stage of trial of the suit. Admittedly, there are two suits. One is O.S.No.206 of 2024 filed by the respondents herein/plaintiffs seeking the relief of declaration and delivery of possession and yet another suit has been filed by the petitioner herein as plaintiff in O.S.No.355 of 2024. Both the suits are pending before the same Court and have been taken up together. The respondents/plaintiffs, pending the suit in O.S.No.206 of 2024, had sought for appointment of Advocate Commissioner to file a report to throw light on the allegations made in the plaint. The application was resisted by the revision petitioner on the ground



that the survey was already conducted and the vendor of the respondents did not object to the occupation of the property by the petitioner. Therefore, there was absolutely no necessity for appointment of the Advocate Commissioner. The learned counsel would further submit that their attempt was only to collect evidence and the same is impermissible in law.

4. Per contra, the learned counsel appearing for the respondents/plaintiffs submits that only in order to fortify the allegations made in the plaint, as well as the rough sketch attached to the plaint, regarding the actual extent and the nature of encroachment made by the revision petitioner, the application was necessitated. The learned counsel further submits that the trial Court has rightly entertained the application and there is no merit in the revision petition.

5. I have carefully considered the submissions made by the learned counsels on either side and perused the materials placed on record.

6. The Trial Court has exercised judicial discretion in entertaining the application for appointment of the Advocate Commissioner and the Court trying the suits is justified to call for a report from the Advocate



Commissioner with an aid of the Taluk Surveyor, if there is a necessity.

I have gone through the order passed by the Trial Court. The trial Court has given reasons for entertaining the application for appointment of the Advocate Commissioner, finding that the reports of the Advocate Commissioner and the Taluk Surveyor would throw light on the issues, that are to be adjudicated in the suits. I do not find any perversity or infirmity in the order passed by the trial Court appointing the Advocate Commissioner.

7. Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

17.06.2025

Speaking Order/Non-speaking Order

Index : Yes / No

Neutral Citation : Yes/No

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To

The learned Subordinate Judge,

Kodumudi, Erode District.

P.B. BALAJI,J.



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