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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**C.R.P.No.2734 of 2025
and CMP.No.15445 of 2025**

R. Selvakani

... Petitioner

Vs.

1. V. Ravikumar

2. The Sub Registrar, Pammal
Office of the Sub Registrar,
Pammal, Chennai – 75

3. The Sub Registrar,
Achirapakkam,
Office of the Sub Registrar,
Achirapakkam,
Chengalpattu district.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree made in I.A.No.8 of 2024 in O.S.No.123 of 2024 on the file of the Sessions Judge, Mahila Court, Chengalpattu dated 13.02.2025.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.S.V.Vijay Prasanth
for R1

Mrs.K.Ashwini Devi
Additional Government Pleader
for R2 & R3



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ORDER

The Civil Revision Petition has been filed to set aside the order and decree made in I.A.No.8 of 2024 in O.S.No.123 of 2024 on the file of the Sessions Judge, Mahila Court, Chengalpattu dated 13.02.2025.

2. The revision petitioner is challenging the order of appointment of Advocate Commissioner to take down the physical features and also to take inventory of the schedule mentioned property.

3. The learned counsel for the petitioner invited my attention to the impugned order and stated that it is a non speaking order and absolutely no reason has been assigned by the trial Court for appointment of Advocate Commissioner and because merely no prejudice would be caused to the parties an Advocate Commissioner cannot be appointed to carry out a local inspection.

4. The learned counsel for the first respondent submitted that the property belongs to the first respondent/plaintiff and the suit has been filed to recover possession from the defendant, who is none other than



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his wife. It is also contended that the plaintiff was running a workshop inside the suit property and several machineries have been purchased and are available inside the suit property. According to the learned counsel for the respondent, the defendant has taken over the possession of the property illegally and slowly started to alienate the immovable assets.

5. Heard both sides and perused the materials available on record.

6. I have also gone through the decisions referred by the learned counsel for the 1st respondent in support of his contention. It is the specific case of the 1st respondent/plaintiff that the suit property belongs to him and he seeks to recover the possession of the property from his wife. In the schedule to the plaint, I find that the same contains several items and in item No.1, a workshop is there and according to the respondent/plaintiff his machineries and third party machineries are also available. The schedule however only indicates land and building and there is no inventory or list of machineries that are claimed to be inside the said property. There is also no relief in the suit with regard to the machineries inside the suit property.



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7. In the light of the above, I do not find that the appointment of the Advocate Commissioner would be necessary to adjudicate the issues for consideration in the said suit which is nothing to do with the machineries which are now claimed to be belonging to the respondent and also to the third parties.

8. The learned counsel for the respondent in support of his contention relied upon the following decisions of this Court in the cases of:-

1. ***R.Manoharan and others Vs S.Ramakrishnan*** in S.A.No.1024 of 2013 dated 29.03.2022
2. ***Kandipalayam Rajavaikkal Siru Vivasaiyigal Neertru Pasana Sangam Vs Nanjay Edayar Vivasaiyigal Sangam*** reported in 2017 (2) CTC 404.
3. ***Vaithinattar and another Vs Sakkubai Ammal*** reported in 2004 SCC online Mad 351 : AIR 2004 Mad 419
4. ***Kathirappan and another Vs N.Vijanthimala and another*** reported in 2018 SCC online Mad 13657 : AIR 2019 Mad 29



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9. In the case of ***R.Manoharan and others Vs S.Ramakrishnan*** in S.A.No.1024 of 2013 dated 29.03.2022, this Court had found that plaintiffs had established their right, title and possession over the suit property and hence the Court should have appointed an Advocate Commissioner to ascertain whether the wall is falling within the suit property.

10. In the case of ***Kandipalayam Rajavaikkal Siru Vivasaiyigal Neertru Pasana Sangam Vs Nanjay Edayar Vivasaiyigal Sangam*** reported in 2017 (2) CTC 404, it is held that the scope of an Advocate Commissioner warrant for carrying out a local investigation was found to be requisite for the purpose of elucidating any matter in dispute, but an Advocate Commissioner cannot be appointed to note down factum of possession under the pretext of noting down physical features. Court alone can gather evidence regarding factum of possession and it cannot be entrusted to the Advocate Commissioner. However as already discussed the machinery is not even in issue in the suit. Therefore, this decision also is not in favour of the respondent.

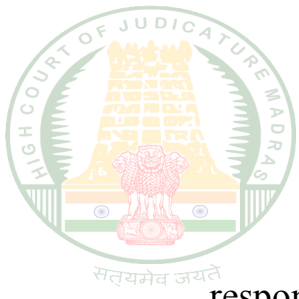


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11. In the case of ***Kathirappan and another Vs N.Vijanthimala and another*** reported in 2018 SCC online Mad 13657 : AIR 2019 Mad 29, it is held that since the suit is one for partition, it would be advantage to both parties, if inventory and report of the same are before this Court and therefore commissioner was appointed and it is not the case in hand.

12. In the case of ***P.Rajendran and another Vs Thangam and another*** in CRP.No.1056 of 2025 dated 17.06.2025, I had the occasion to set aside the order of refusal for appointment of Advocate Commissioner by the trial Court and allow the revision where I had stated that the report would certainly assist the trial Court in adjudicating the disputed questions of fact and therefore appointment of an Advocate Commissioner is required for local investigation and would be necessary as it would be of assistance to the trial Court to adjudicate the real disputed questions that arise between the parties based on the written statement.

13. In the present case, the plaintiff has not made any specific reference to the machineries which are now sought to be inventory by the



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respondent/plaintiff and the trial Court also. As rightly contended by the learned counsel for the revision petitioner without any discussion whatsoever has straight away proceeded to accept the request for appointment of an Advocate Commissioner on the ground no prejudice would be caused to the parties. Since it is the specific contention of the learned counsel for the respondent/ plaintiff that the defendant has attempted to dispose of the movable assets that are available inside the suit property, it shall always be open to the respondent / plaintiff to take out a proper application to restrain the defendant, if so advised.

14. In view of the above, the order passed by the learned Sessions Judge, Mahila Court, Chengalpattu in I.A.No.8 of 2024 in O.S.No.123 of 2024 dated 13.02.2025 is hereby set aside. In the result, the civil revision petition stands allowed. No costs. Consequently connected miscellaneous petition is also closed.

Index : No
Internet : Yes
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P.B.BALAJI, J.

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To
The Sessions Judge,
Mahila Court, Chengalpattu.

C.R.P.No.2734 of 2025

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