



WEB COPY

CRP. No.4226 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.06.2025**

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP. No.4226 of 2024

and

CMP. No.23425 of 2024

K.Neelavannan

Petitioner(s)

Vs

1.Basker

2.Murali

3.Usharani

Respondent(s)

PRAYER: This Civil Revision Petition under Article 227 of the Constitution of India, to set aside the order dated 13.08.2024 made in I.A. No.7 of 2024 in O.S. No. 6926 of 2022 passed by the XXII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.M.Senthilkumar

For Respondents : Mr.C.Jayachithra

ORDER

The petitioner/plaintiff, aggrieved by the dismissal of the Application seeking appointment of an Advocate Commissioner has preferred this Civil Revision Petition.



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2. Heard Mr.M.Senthilkumar, learned counsel for the petitioner and Ms.C.Jayachithra, learned counsel for the respondent.

3. The suit is one for permanent injunction. At the stage of cross examination of D.W.1, the petitioner/plaintiff has chosen to take the Application seeking appointment of Advocate Commissioner to measure the property as per the FMB-sketch issued by the Tamil Nadu Slum Clearance Board. The Trial Court has dismissed the Application on the ground that the Commissioner cannot speak about the lay of the FMB-sketch and the existence of pathway and further the plaintiff who has come to the Court asserting physical possession has to establish the same on his own account and not gather evidence to prove his case, by seeking appointment of Advocate Commissioner.

4. The learned counsel for the petitioner would state that only in order to establish the existence of pathway, the Application for appointment of Commissioner has been taken out and therefore, no prejudice would be caused to the respondent/defendant, if the Commissioner is appointed to inspect the property, to measure the same



and in terms of the FMB issued by Tamil Nadu Slum Clearance Board.

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5. Per contra, the learned counsel for the respondent Ms.C.Jayachithra, would state that the petitioner has admitted during the cross examination with regard to the existence of the property and that the dispute is only with regard to pathway which is adjoining the plaintiff's property, which the plaintiff is trying to prevent the defendant from accessing.

6. I have carefully considered the submissions advanced by the learned counsel on either side and also gone through the order impugned in this revision.

7. I do not find any infirmity in the order of the Trial Court holding that the appointment of Advocate Commissioner would not serve any purpose in a suit for permanent injunction to establish the case of the plaintiff. The Trial Court has also held that it would be open to the plaintiff to examine the witnesses from Tamil Nadu Slum Clearance Board for existence of pathway as well as the veracity of FMB-sketch.



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P.B.BALAJI, J.,

Therefore, I do not find any merit in the revision, accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

20.06.2025

rkp

Index : Yes / No

Internet : Yes / No

To:

The XXII Assistant Judge,
City Civil Court, Chennai.

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