



WEB COPY



CRP.No.4203 of 2025 and C.M.P.No.21587 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.4203 of 2025

and

CMP.No.21587 of 2025

1. Joseph
2. Estherajiyam
3. Raja

... Petitioners / Petitioners /
Plaintiffs

Versus

1. The Block Development Officer,
Marakkanam Panchayat Union,
Marakkanam.
2. The Tahsildar, Taluk Office,
Tindivanam.
3. District Collector,
O/o. the District Collector, Villupuram District.

... Respondents / Respondents /
Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order in I.A.No.22 of 2025 in O.S.No.55 of 2023, dated 24.06.2025 passed by the Principal District Munsif Court, Tindivanam.



CRP.No.4203 of 2025 and C.M.P.No.21587 of 2025

For Petitioners
For Respondents

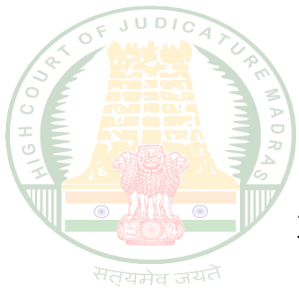
: Mr.K.Nithyashree
: Mr.C.S.Sathish,
Government Advocate

WEB COPY

ORDER

Unsuccessful plaintiffs have preferred the present Civil Revision Petition.

2. The suit in O.S.No.55 of 2023 is filed for seeking bare injunction and for mandatory injunction as against the official defendants i.e., (1) The Block Development Officer, Marakkanam Panchayat Union, Marakkanam, (2) The Tahsildar, Taluk Office, Tindivanam and (3) The District Collector, O/o. the District Collector, Villupuram District. The defendants have also filed their written statement in this Suit. Issues are framed, at the stage, the plaintiffs have filed an application under Order 26 Rule 9 of CPC seeking to appoint an Advocate Commissioner to measure the suit schedule properties with the assistance of a Surveyor, Village Administrative officer and to file a plan along with report.



WEB COPY

3. Upon considering the evidence adduced on either side, the Court below has dismissed the application on the ground that an Advocate Commissioner cannot be appointed to collect the evidence and onus lies on the plaintiff to establish in this case. Aggrieved over the same, the plaintiffs have preferred the present Civil Revision Petition.

4. The learned counsel appearing for the revision petitioner would submit that the Court below failed to consider the averments in the written statement wherein the disputed the tax receipts filed by the plaintiffs to prove the possession over the item No. 2 of the suit schedule property. In such circumstances, it becomes imminent to appoint an Advocate Commissioner to establish the nature of the property and its possession. The Advocate Commissioner is necessary to identify whether the item No. 1 of the suit schedule property belongs to the plaintiffs is being used a public road. The Court below also failed to note that the respondents have chosen to file their written statement in the suit and they have not chosen to file the counter in the application, nor they have conveyed their objections in that application.

5. It is seen from the records, the suit is filed for bare injunction and for mandatory injunction. In the plaint, there are two schedule of properties are



mentioned, the first item number property is mentioned as the property is situated at Eraiyanur Village, Tindivanam Taluk, in Punja Survey No.41/2B, to an extent of 1 acre 69 cents, and item 2 of the suit property is described as the property is situated at Eraiyanur Village, Tindivanam Taluk, in Punja Survey No.59, to an extent of 0.07 cents vacant land, and the house was constructed to an extent of 20 x 30 feet.

6. It is settled that an Advocate Commissioner cannot be appointed to collect the evidence. The power is conferred on the Court to appoint a Advocate Commissioner for local inspection, in order that the Court may better appreciate the evidence already on record.

7. Upon considering the submissions made on the Revision Petitioner, considering the documents produced the court below rightly concluded that an Advocate Commissioner cannot be appointed to collect the evidence to prove the case.

8. In view of the above, there is no reason to interfere with the order passed in I.A.No.22 of 2025 in O.S.No.55 of 2023, dated 24.06.2025 on the file of the Principal District Munsif Court, Tindivanam.



CRP.No.4203 of 2025 and C.M.P.No.21587 of 2025

WEB COPY

9. Accordingly, this Civil Revision petition is dismissed. Consequently, connected civil miscellaneous petition is closed. No costs.

04.09.2025

av

Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

1. The Principal District Munsif Court, Tindivanam.
2. The Block Development Officer,
Marakkanam Panchayat Union,
Marakkanam.
3. The Tahsildar, Taluk Office,
Tindivanam.
4. District Collector,
O/o. the District Collector,
Villupuram District.

M. JOTHIRAMAN, J.

av



WEB COPY



CRP.No.4203 of 2025 and C.M.P.No.21587 of 2025

CRP.No.4203 of 2025
and
CMP.No.21587 of 2025

04.09.2025