



C.R.P.No.4043 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.4043 of 2025
and C.M.P.No.22220 of 2024

L.Palani

... Petitioner

vs.

S.Perumal

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set-aside the Fair and Decretal order dated 12.01.2024 passed by the learned Additional District Munsif Court, Cheyyar, Thiruvannamalai District, made in I.A.No.07 of 2023 in O.S.No.6 of 2019 and allow the Civil Revision Petition.

For Petitioner : Mr.K.M.Balaji

For Respondent : Mr.K.G.Senthilkumar

ORDER

The Civil Revision Petition is filed challenging the order passed by the Additional District Munsif Court, Cheyyar, Thiruvannamalai District in I.A.No.07 of 2023 in O.S.No.6 of 2019, dated 12.01.2024 dismissing the application filed by the petitioner/defendant seeking issuance of witness summons to Advocate Commissioner and Town Surveyor, who measured the suit property.



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2. The respondent herein filed a suit seeking declaration of title in respect of Suit 'B' Schedule Property and mandatory injunction for removal of the wall put up in the suit mentioned property. The respondent also sought for recovery of possession of the entire Suit 'B' Schedule Property after removal of the wall. Pending suit, an Advocate Commissioner was appointed to measure the suit property with the help of Town Surveyor and he filed his report and plan along with the report of the Surveyor. The petitioner/defendant filed objections stating that Advocate Commissioner measured the property of the petitioner only with reference to the revenue documents and he failed to measure the property with reference to the title document. It was also stated that Advocate Commissioner and Town Surveyor did not identify the survey stones in the subject property.

3. Now, the petitioner/defendant filed an application seeking issuance of witness summons to the Advocate Commissioner and Town Surveyor to examine them as a court witness with opportunity to cross examine them. The said application was dismissed by the Trial Court mainly on the ground that the petitioner failed to furnish the title document to the Advocate Commissioner, when he visited the property and therefore, his request for



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examination of Advocate Commissioner and Town Surveyor cannot be accepted. Aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner would submit that the property was measured by the Advocate Commissioner without properly identifying the survey stones and therefore, an opportunity shall be given to the petitioner to cross examine him.

5. The learned counsel appearing for the respondent by taking this Court to the report of the Advocate Commissioner submitted that the Advocate Commissioner in his report clearly stated that Surveyor identified the survey stones and thereafter, the property was measured and hence, the request of the petitioner need not be considered.

6. Even though the Advocate Commissioner in his report mentioned that survey stones were identified by the Surveyor, he has not shown the survey stones identified by the Surveyor in his plan. The Surveyor also has not filed any plan mentioning the survey stones identified by him. If the suit property is measured without identifying the survey stones, the same may not help the Court to decide the controversy with regard to the location of disputed wall.



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7. When the Advocate Commissioner failed to mention the location of the survey stones allegedly identified by the Surveyor, the request made by the petitioner for examination of Advocate Commissioner may be considered. Therefore, the impugned order passed by the Trial Court is set aside and the petition filed by the petitioner seeking issuance of witness summons to the Advocate Commissioner stands allowed. The request made by the petitioner for examination of the Surveyor need not be considered. Hence, I.A.No.7 of 2023 is partly allowed by directing the Additional District Munsif Court, Cheyyar, Thiruvannamalai District, to issue witness summons to Advocate Commissioner to examine him as a court witness.

8. Accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

The Additional District Munsif Court,
Cheyyar, Thiruvannamalai District.



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S.SOUNTHAR, J.

dm

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