



C.R.P.No.4193 of 2025
and C.M.P.No.21528 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

C.R.P.No.4193 of 2025
and C.M.P.No.21528 of 2025

Subramani

... Petitioner

Vs.

1.Vijaya Ammal

2.Rajendiran

3.Elumalai

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decree dated 12.06.2023 in I.A.No.79/2017 in O.S.No.32/2016 on the file of the District Munsif cum Judicial Magistrate, Ranipet.

For Petitioner : Mr.A.Gouthaman

ORDER

This Civil Revision Petition has been filed challenging the order dated 12.06.2023 passed in I.A.No.79/2017 in O.S.No.32/2016 on



C.R.P.No.4193 of 2025
and C.M.P.No.21528 of 2025

WEB COPY the file of the District Munsif cum Judicial Magistrate, Ranipet.

2. The plaintiff / Subramani has filed the suit in O.S.No.32/2016 on the file of the District Munsif cum Judicial Magistrate, Ranipet, seeking the relief to declare the plaintiff's right and title to the 'B' schedule suit property and also seeking for permanent injunction restraining the defendants and their men not to interfere with the plaintiff's peaceful possession and enjoyment of the suit property. In the plaint there are two schedule of properties were mentioned. The 'A' schedule of property is situated at Vellore District, Walaja Taluk, Seekarajapuram Village bearing S.No.42/2-0.27.0 Hec in patta No.414 - 0.54 paise. The 'B' Schedule of property is situated at Vellore District, Walaja Taluk, Seekarajapuram Village bearing S.No.42/2B measuring 0.02.5 Hec, kist Rs.0.10 paise in patta No.1346 bounded on the north S.No.41/5, Ayyappan Temple on the south, plaintiff's house on the east, Battai leading to Vadagal Village and on the west S.F.No.42/2A.



C.R.P.No.4193 of 2025
and C.M.P.No.21528 of 2025

WEB COPY

3. During the pendency of the suit, the defendants had filed an application under Order XXVI Rule 9 and Section 151 of Civil Procedure Code to appoint an Advocate Commissioner to inspect the suit 'A' and 'B' schedule properties to survey the suit schedule properties with the help of Taluk Deputy Surveyor or Firka Surveyor and submit a report with plan to find out the correctness of the boundaries given for the 'B' schedule property in the plaint.

4. The Court below appointed the Advocate Commissioner. In pursuance of the order of the court below the Advocate Commissioner had inspected the suit property and filed his report. The revision petitioner / plaintiff has filed his detailed objection. In the objection, the revision petitioner / plaintiff it has been stated that the Advocate Commissioner surveyed only S.F. No.42/3 and S.F.No.42/2B alone with the present F.M.B. sketch without considering the old F.M.B. sketch shown by the plaintiff side and his counsel. It is also stated that the said old FMB sketch clearly shows that there is no such S.F.No.42/3. Further

Page 3 of 6



C.R.P.No.4193 of 2025
and C.M.P.No.21528 of 2025

WEB COPY it is also stated that the plaintiff obtained certified copy of F.M.B sketch dated 29.06.2016 from Tahsildar of Walaja Taluk and the plaintiff found in that F.M.B., there is no such S.F.No.42/3 and the said F.M.B. was referred to the suit surveyor and the Advocate Commissioner at the time of inspection of suit property. But they have not considered the same. Upon considering the Advocate Commissioner report, the court below noted the objections filed by the revision petitioner / plaintiff stating that S.F.No.42/3 belongs to the defendants is considered and the same is recorded.

5. The learned counsel appearing for the revision petitioner would submit that such observation recorded by the Advocate Commissioner and the same also considered by the court below is contrary to the law and the facts.

6. It is well settled that the Advocate Commissioner, who visit the suit schedule properties, can note down the physical features of the suit schedule properties alone and the Advocate Commissioner cannot



C.R.P.No.4193 of 2025
and C.M.P.No.21528 of 2025

WEB COPY collect any evidence to establish the case of the parties concerned and moreover, the Advocate Commissioner report is not a conclusive proof for taking decision of the lis between the parties. It is for the revision petitioner to raise his objection on the Advocate Commissioner's report during trial. If valid objection raised by the parties concern, it may be taken into consideration in a manner known to law. This Court is of the considered view that there is no reason warrants to interfere with the order of the court below.

7. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is also closed.

03.09.2025

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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C.R.P.No.4193 of 2025
and C.M.P.No.21528 of 2025

M.JOTHIRAMAN, J.

mtl

C.R.P.No.4193 of 2025
and C.M.P.No.21528 of 2025

03.09.2025