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C.R.P.No.4200 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2025

**CORAM
THE HONOURABLE MR. JUSTICE P.B.BALAJI**

**C.R.P.No.4200 of 2023
and
C.M.P.No.25566 of 2023**

M.Govindasamy

... Petitioner

Vs.

1.Muthusamy

2.Subbathal

3.C.S.Natarajan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the fair and Decretal order dated 26.06.2023 passed I.A.No. 2 of 2023 in O.S.No. 531 of 2007 on the file of District Munsif Court, Dharapuram, Thirupur District and allow the same.

For Petitioner : Mr.V.Regunathan

For R1 & R2 : Ms.M.Adhishree
for Mr.N.Manokaran

For R3 : Not ready in notice



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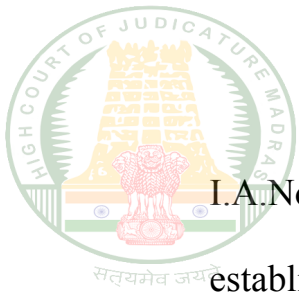
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ORDER

The plaintiff, who was unsuccessful in seeking appointment of an Advocate Commissioner in I.A.No.2 of 2023, is the revision petitioner.

2. The suit has been filed for declaration to set aside the sale deed in favour of the defendants and also for permanent injunction restraining the defendants from interfering with the alleged peaceful possession and enjoyment of the property. It is seen that parties have already let in oral and documentary evidence and the suit is posted for arguments. At that stage, the plaintiff has taken out the application seeking appointment of Advocate Commissioner to establish that the lands remain uncultivated for over 12 years and that the property is filled with thorns and bushes and if the commissioner visits the suit property, he will be in a position to note down the trees, which would assist the Court to effectively adjudicate the issues arising for consideration, especially since the revision petitioner has also sought for the relief for permanent injunction to restrain the defendants from interfering with the peaceful possession and enjoyment of the suit property. However, the said application was resisted by the respondents stating that earlier the plaintiff had filed I.A.No.739 of 2021 for re-opening evidence and

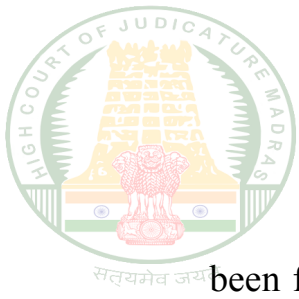


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I.A.No.740 of 2021 has been filed for examination of VAO only in order to establish the very same fact and the said applications came to be dismissed by the Trial Court and even the revision in CRP.No.2203 of 2021 was partly allowed, permitting the revision petitioner to adduce evidence only with regard to sale deeds. CRP.No.2206 of 2021 filed against the dismissal of I.A.No.740 of 2021 was dismissed . In order to seek for the very same relief, he attempts to gather evidence for plaintiff side, the application for appointment of Advocate Commissioner has been taken out. The Trial Court has rightly found that earlier applications filed by the plaintiff were dismissed and the attempt of the plaintiff is only to collect evidence with regard to the possession by clever pleadings. Relying on the decision of this Court in **2006 (2) LAW 159**, the Trial Court has dismissed the application holding that Advocate Commissioner cannot be appointed to establish long possession, by noting down the age of the buildings and trees.

3. I do not find any perversity or illegality in the findings as well as decision of the Trial Court dismissing the I.A.No.2 of 2023 warranting any interference under Article 227 of Constitution of India. Accordingly, the Civil Revision Petition stands dismissed.



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4. The suit is of the year 2007. Considering the fact that the suit has been filed way back in the year 2007, this Court directs the District Munsif, Dharapuram, Thirupur District to dispose of the suit on merits and in accordance with law within a period of three months from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

29.07.2025

Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

The District Munsif Court, Dharapuram,
Thirupur District.

P.B.BALAJI, J.

nr



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