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CRP.No.4137 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2025

CORAM:
THE HONOURABLE MR.JUSTICE S.SOUNTHAR
CRP.No.4137 of 2025
and CMP.No.21302 of 2025

Gyanchand Kothari

... Petitioner

Vs.

1.M.Suresh
2.S.Shakuntala
3.G.Ashok Kumar
4.G.Praveen Kumar

...Respondents

PRAYER: Civil Revision Petition filed Article 227 of Constitution of India, praying to set aside the order and decree dated 06.08.2025 made in I.A.No.7 of 2025 in O.S.No.4405 of 2014 on the file of the learned XIII Assistant City Civil Judge, Chennai by allowing this Civil Revision Petition.

For Petitioners :Mr.A.V.Arun

For Respondents :M/s.T.Srikanth for R1 and R2
No appearance for R3 and R4

**ORDER**

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The Civil Revision petition is filed challenging the order passed by the learned trial Judge, revoking the appointment of Advocate Commissioner.

2. The respondents 1 and 2 filed a suit for recovery of money based on Rukah, the plaintiff side evidence is over and the matter is posted for recording the evidence of defendant side. The petitioner who was arrayed as first defendant in the suit, filed applications in I.A.Nos.6, 7 and 8 of 2025, seeking his examination, the same was allowed by this Court. An Advocate Commissioner was appointed to examine his evidence, later, the respondents 1 and 2 herein filed an application to revoke the appointment of Advocate Commissioner on the ground that the petitioner was hale and healthy. The petitioner therein also produced the photographs, wherein, the petitioner was found in a public space without any help to walk. In order to ascertain the real state of affairs, the Court examined the Advocate Commissioner. He categorically represented that the petitioner/PW.1 was able to walk with the aid of a stick and in his opinion, he was fit enough for examination before Court.



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3. Taking into consideration, the opinion expressed by the Advocate Commissioner that the petitioner was fit enough to appear before the Court for examination, the learned trial judge ordered the application filed by the respondents 1 and 2 and revoked the appointment of Advocate Commissioner. Aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner vehemently contended that the petitioner is an octogenarian, suffering from age related ailments, unable to walk and therefore, he shall be examined through Advocate Commissioner.

5. Though it was stated on behalf of the petitioner that he is not in a position to move without help, the Advocate Commissioner who had an opportunity to see his position clearly represented before the Court that the petitioner could appear and give evidence before the Court. Taking into consideration the same, the trial Court revoked the order of appointment of



Advocate Commissioner.

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6. I do not find any error in the order passed by the trial Court and accordingly, Civil Revision Petition stands dismissed. The learned counsel for the petitioner submits that subsequent to the order impugned in this matter, the Court below proceeded with the hearing of the case and respondents/plaintiffs side arguments already heard. Therefore, necessary directions may be issued to the trial Court to give an opportunity to the petitioner to give evidence. In view of the order passed by this Court confirming the impugned order, the Court below is directed to reopen the case and permit the petitioner to appear before the Court for examination and give evidence and thereafter, dispose of the suit in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
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To
The XIII Assistant City Civil Judge,
Chennai.

S.SOUNTHAR, J.



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