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CRP.No.4475 of 2025 and C.M.P.No.22817 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.4475 of 2025

and

CMP.No.22817 of 2025

Namasivayam

... Petitioner / Petitioner / Plaintiff

Versus

1. Dhamodaran
2. Thirumalai
3. Thirumalaivasan
4. Vijayan
5. Selvaraasu
6. The Revenue Tahsildar,
Tahsildar Office, Virudhachalam,
Virudhachalam Taluk, Cuddalore District.
7. The Sub Collector,
RDO Office, Virudhachalam,
Virudhachalam Taluk, Cuddalore District.
8. The District Collector,
Collector Office, Virudhachalam,
Virudhachalam Taluk, Cuddalore District.
9. The Joint Sub-Registrar-I,
District Registrar Office Campus,
Virudhachalam, Virudhachalam Taluk,
Cuddalore District.
10. The District Registrar,

1/6



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District Registrar Office,
Virudhachalam, Virudhachalam Taluk,
Cuddalore District.

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... Respondents / Respondents / Defendants

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 03.10.2024 made in I.A.No.02 of 2023 in O.S.No.328 of 2023 on the file of the learned III Additional District and Sessions Court, Cuddalore by allowing this Civil Revision Petition.

For Petitioner	: Mr. K. Magesh
For R6 to R10	: Mr.P.Gurunathan, Additional Government Pleader

ORDER

Unsuccessful plaintiff has preferred the present Civil Revision Petition.

2. The Revision Petitioner is the plaintiff in O.S.No.328 of 2023 on the file of the III Additional District and Sessions Court, Cuddalore. The suit was filed for declaration and for permanent injunction, to declare the document dated 23.02.2023 executed by the first defendant in favour of the fourth defendant as null and void, and to declare the document executed by the first defendant in favour of the fifth defendant dated 15.06.2023 as null and void.



The plaintiff has also sought to declare that the revenue records standing in the name of the first defendant are null and void. The defendants have filed their written statement, and necessary issues have been framed. The suit is posted for trial. At this stage, the plaintiff filed an application in I.A.No. 2 of 2023 in O.S.No. 328 of 2023 under Order XXVI Rule 9 of the CPC, seeking appointment of an Advocate Commissioner to survey the suit property with the help of a surveyor and the Village Administrative Officer, to verify the old survey numbers and the subsequent sub-divisions mentioned in the suit schedule property. Upon hearing either side, the Court below, *vide* order dated 03.10.2024, dismissed the application on the ground that the revision petitioner / plaintiff could establish his possession by producing the necessary documents, and that the plaintiff had failed to produce adequate material to justify the need for a survey of the suit property. Aggrieved over the same, the plaintiff has filed the present Civil Revision Petition.

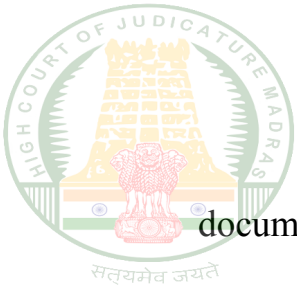
3. The learned counsel appearing for the revision petitioner would submit that, in view of the factual disputes raised in the pleadings, the petitioner had filed I.A.No.2 of 2023 seeking appointment of an Advocate Commissioner to note down the physical features of the property and to file a



report. The appointment of an Advocate Commissioner is very much necessary for the effective adjudication of the suit and would assist the Court during the trial for a proper appreciation of evidence.

4. It is seen from the records that the plaintiff, in his affidavit filed in I.A.No. 2 of 2023, in paragraph No.9, has stated that it is necessary to inspect the suit schedule property along with the District Surveyor and the Village Administrative Officer, in order to verify the survey numbers of the suit schedule property, and also to verify the old and new sub-divisions made therein, and to declare the plaintiff's portion in the suit schedule property.

5. It is well settled that an Advocate Commissioner should not be appointed to gather evidence to prove the case of either party, since the parties are required to prove their case by letting in legally acceptable evidence. The report of the Commissioner can only aid the Court in evaluating the evidence to arrive at a just conclusion (*Krishnamurthy, T.K. vs. Tamil Nadu Water and Drainage Board*, reported in *2006(5) CTC 178*). It is also to be noted that the factum of possession cannot be ascertained by the Commissioner, as the same has to be proved by letting in oral and



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documentary evidence by the parties before the Court.

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6. In view of the above, there is no reason to interfere with the order passed in I.A.No.2 of 2023 in O.S.No.328 of 2023, dated 03.10.2024, on the file of the learned III Additional District and Sessions Court, Cuddalore.

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

19.09.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

The learned III Additional District and Sessions Court,
Cuddalore.

M. JOTHIRAMAN, J.

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