



C.R.P.(PD) No.4587 of 2025 and
C.M.P.No.23265 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

C.R.P.(PD) No.4587 of 2025
and
C.M.P.No.23265 of 2025

1.M.Munusamy
2.Jayalakshmi

...Petitioners

..Vs..

1.Pachiyappan
2.Santha
3.Sivaguru

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the orders of the learned Additional Subordinate Judge of Krishnagiri dated 20.06.2025 in I.A.No.8 of 2025 in O.S.No.246 of 2021.

For Petitioners :Mr.V.Nicholas

ORDER

The unsuccessful plaintiffs have preferred this petition.

2. The suit was filed for declaration and for a permanent injunction.

The defendants filed their written statement, and necessary issues were



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framed. Trial commenced. On the side of the plaintiffs, P.W.1 and P.W.2 were examined, and certain documents were marked. On the side of the defendants, D.W.1 was examined and cross-examined. At this stage, the plaintiffs filed an application in I.A.No.8 of 2025 in O.S.No.246 of 2021 under Order 26 Rule 9 of the C.P.C., seeking the appointment of an Advocate Commissioner to visit the suit schedule property along with the Village Administrative Officer and a Surveyor, to demarcate the property and file a report before the Court.

3. The Court below, vide order dated 20.06.2025, dismissed the application on the ground that the evidence of D.W.1 had already been cross-examined by the plaintiffs, and in order to prove their case, the plaintiffs could establish it by filing necessary documents. Therefore, the appointment of an Advocate Commissioner was not necessary. Aggrieved by the same, the petitioners have preferred the present Civil Revision Petition.

4. It is not in dispute that the case is at the stage of examination of the defendants' side evidence. From the records and the affidavit filed in I.A.No.8 of 2025, it is seen that during the cross-examination of D.W.1, he denied the existence of any house in Survey No.362/2B. The plaintiffs



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sought the appointment of an Advocate Commissioner to visit the suit schedule property to ascertain such facts. However, it is well settled that an Advocate Commissioner cannot be appointed merely for the purpose of collecting evidence to establish the case of the parties. In a suit for declaration and permanent injunction, the burden of proof lies upon the plaintiffs to establish their case by adducing relevant documents and oral evidence. Therefore, there are no grounds to interfere with the order of the Court below.

5. In the result, this Civil Revision Petition is dismissed. No costs.

Consequently, the connected C.M.P is closed.

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Index: Yes/No

Speaking Order: Yes/No

To

The Additional Subordinate Judge, Krishnagiri

M.JOTHIRAMAN,J.,

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