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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2025

CORAM

THE HONOURABLE MR JUSTICE M.JOTHIRAMAN

CRP.No.4547 of 2025

and CMP.No.23138 of 2024

Chakrapani

... Petitioner

Vs.

1.D.Sadhasivam

2.D.Mahadevan

3.D.Soundarrajan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 06.08.2025 made in I.A.No.3 of 2023 in O.S.No.11 of 2020 on the file of the Principal District Munsif, Vellore by allowing the Civil Revision Petition.

For Petitioner : Mr.S.Doraiswamy

ORDER



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This civil revision petition has been filed to set aside the order dated 06.08.2025 made in I.A.No.3 of 2023 in O.S.No.11 of 2020 by the Principal District Munsif, Vellore.

2.The unsuccessful defendant has preferred the petition.

3.The respondents/plaintiffs have filed the suit in O.S.No.11 of 2020 on the file of Principal District Munsif Court, Vellore, seeking the relief of permanent injunction restraining the defendant, his men, agents and servants from interfering with the plaintiffs peaceful possession and enjoyment of the schedule mentioned property therein.

4. The defendant has filed written statement. Thereafter, the defendant has filed the application in I.A.No.3 of 2023 under Order 26 Rule 9 Read with 151 civil procedure code seeking appointment of an advocate commissioner with the assistance a qualified surveyor to measure and demarcate the property claimed to have been purchased by him under registered sale deed dated 09.07.2004.



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5. Upon considering the either side arguments, the Court below vide order dated 06.08.2025, dismissed the application on the ground that the defendant seeks to appoint commissioner for survey of the property not related to the suit property, but in respect of his own alleged land, which is not admitted by the plaintiff not forms part of the pleadings in the suit. Aggrieved over the same, the defendant has preferred the present civil revision petition.

6. The learned counsel appearing for the revision petitioner would submit that the Court below has failed to note that the suit property in O.S.No.11 of 2020 was sold to one Saroja Ammal by one Tiruvengadam on 27.01.1983. The said Tiruvengadam is none other than the paternal uncle of the plaintiffs. After the death of the said Saroja Ammal, her legal heirs sold the subject property to one Chinnaamy on 17.12.2003. The said Chinnaamy sold the subject property to the defendant on 09.07.2004. The Court below failed to consider that the defendant is being a bonafide purchaser as per the sale deed dated 09.07.2004. Therefore, the appointment of advocate commissioner is necessary to measure and demarcate the suit property.



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7. It is seen from records that the reasons stated in the affidavit filed by the defendant in I.A.No.3 of 2023, wherein it has been stated that it is necessary to appoint an advocate commissioner who with the help of a surveyor is to measure the property based on the sale deed dated 09.07.2004 and also the suit property given in the plaint and to file a report.

8. The reasons stated in the affidavit shows that the defendant seeks to appoint an advocate commissioner to measure the property purchased by sale deed, as well as the suit property. The suit is filed for bare injunction. Such an exercise is clearly beyond the scope of **lis** between the parties and the same cannot be permitted in the absence of relief claimed in that regard. It is well settled that the burden lies on the plaintiffs to prove their case in a manner known to law. The defendant is attempting to collect evidence in aid of seeking an appointment of Advocate Commissioner. There is no reason warrant to interfere with the order of the Court below.



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

Consequently, connected miscellaneous petition is closed.

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23.09.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

mpa

To

The Principal District Munsif Court, Vellore.



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M.JOTHIRAMAN,J.

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