



CRP.No.4703 of 2025 and CMP.No.23781 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.4703 of 2025

and

CMP.No.23781 of 2025

Mrs.Beryl

W/o. Joseph Immanuel Inbaraj,

Rep. by her Power Agent,

Mr.J.Stanley

... Petitioner / Petitioner / Plaintiff

Versus

1. Mrs. N.Sumathi Nandagopal

2. Mr.Nandagopal

... Respondents / Respondents / Defendants

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 23.07.2025 passed by the learned District Munsif cum Judicial Magistrate Court, Madhavaram in I.A.No.272 of 2021 in O.S.No.113 of 2021 by allowing the Revision Petition.

For Petitioner

: Mr.J.Sudhakaran

ORDER



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Unsuccessful plaintiff / tenant has preferred the present Civil Revision Petition.

2. Suit is filed for not to evict the plaintiff except under due process of law. The defendants / landlords filed their written statement. Necessary issues were framed. The case was posted for trial. At that stage, the plaintiff filed an application in I.A.No.272 of 2021 under Section 26 Rule 9 of the CPC, seeking appointment of an Advocate Commissioner to inspect the suit premises, note down the physical features along with photo copies through photographer and to file a report. The Court below, *vide* order dated 23.07.2025, dismissed the said application on the ground that the revision petitioner / plaintiff has to prove possession and the expenditure incurred in the suit property by means of legally admissible evidence, and that such proof through a Advocate Commissioner's report is unsustainable in law. 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 the Court below failed to consider that there is a threat by the respondents / defendants to unlawfully or forcefully evict the petitioner. Such eviction would cause great hardship and loss to the petitioner, as the petitioner has made a substantial investment in the tenanted portion. Therefore, it is just and necessary to record the fitting and fixtures available in the suit schedule property. However, the trial Court has erroneously concluded that the above application cannot be entertained to determine the factum of possession. The learned counsel further submits that the respondents / landlords have also filed R.L.T.O.P.No.5 of 2022 against the revision petitioner before the same Court, and the said proceeding is still pending.

4. It is not in dispute that the revision petitioner is the tenant and the respondents are the landlords. The suit schedule property is situated at No:228, Ambattur - Redhills Road, First floor, Sivaprakasam Nagar, Surapet, Chennai - 600 066, first floor of entire area and common area 25%, parking area of 20x20=400sq.ft for commercial purpose. It is not in dispute that the landlords have filed R.L.T.O.P.No.5 of 2022 against the revision petitioner, and the same is also pending for adjudication. The relief sought for in the suit



is that restraining the defendants and their servants from interfering with peaceful possession and enjoyment of suit property as a tenant and not to evict except under due process of law.

5. It is well settled that the parties are required to prove their case by establishing acceptable evidence in a manner known to law. Under Section 26, Rule 9 of the CPC, the appointment of an Advocate commissioner is permissible only for limited purposes such as local inspection, but not for collecting evidence to prove the case of any party. In the present case, the suit has been filed by the tenant seeking protection from unlawful eviction without due process of law. Since R.L.T.O.P. proceedings are already pending against the revision petitioner, there is no necessity to appoint an Advocate Commissioner merely to note down the physical features of the property along with photographer to take photographs. Therefore, the trial Court has rightly dismissed the application. In view of the above, there is no reason to interfere with the order passed in I.A.No.272 of 2021 in O.S.No.113 of 2021, dated 23.07.2025, on the file of the learned District Munsif cum Judicial Magistrate Court, Madhavaram.



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6. Considering the age of the suit and also considering the stage of the proceedings, the learned District Munsif cum Judicial Magistrate Court, Madhavaram, is requested to dispose of the suit in O.S.No.113 of 2021 as expeditiously as possible.

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

06.10.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

To

The learned District Munsif cum Judicial Magistrate Court,

Madhavaram.

M. JOTHIRAMAN, J.

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