



CRP.No.5197 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5197 of 2025 and
CMP.No.26195 of 2025

Murugesan

... Petitioner

Vs.

Marudamuthu

...Respondent

PRAYER: Civil Revision Petition filed Article 227 of Constitution of India, praying, to set aside the order dated 08.08.2025 made in I.A.No.4 of 2024 in O.S.No.144 of 2023 on the file of Additional District Munsif, Namakkal.

For Petitioner	: Mr.S.Saravana Kumar for Mr.I.Abrar Mohamed Abdullah
For Respondent	: Mr.T.N.Rajagobalan for Mr.A.Devnarenderan

ORDER

The Civil Revision Petition is filed challenging the order passed by the court below appointing an Advocate Commissioner to measure the property with the help of Taluk Surveyor.



WEB COPY

2. The petitioner herein filed a suit for bare injunction against the respondents. Pending suit, the respondents/defendants filed application seeking appointment of Advocate Commissioner to measure the property with the help of Taluk Surveyor and file a report. The said application was opposed by the petitioner herein on the ground that appointment of Advocate Commissioner was not at all required in a suit for bare injunction.

3. The trial court, on considering the contentions put forth by the parties, gave a finding that respondents have not given any reason for seeking appointment of Advocate Commissioner and proceeded to appoint Advocate Commissioner on the ground that there has been a continuous litigation between the parties. Aggreived by the same, the petitioner/plaintiff has come before this court.

4. Admittedly, in the present suit, the suit is filed for bare injunction. In such a case, the plaintiff has to prove his lawful possession over the suit property and succeed in his case. A perusal of the pleadings would indicate that the respondents herein claim title over the subject matter of the property by virtue of sale in their favour dated 30.08.1988. In the absence of any serious



dispute with regard to the location of the property, I do not think appointment of Advocate Commissioner is necessary in a suit for bare injunction.

5. The learned counsel for the respondents submitted that the petitioner has not given proper measurement of the subject property in the plaint and therefore, Advocate Commissioner shall be appointed to measure the suit property. If the respondents feels the property has not been properly described in the plaint, it is for them to agitate the same at the time of final disposal.

6. The defendants, in their written statement, have not disputed the description of the property given by the plaintiff. Therefore, in the pleadings of the parties, there is no dispute with regard to the description of the property. In these circumstances, the defendants are not entitled to seek appointment of Advocate Commissioner in a suit for bare injunction wherein the plaintiff has to establish his lawful possession based on the evidence.

7. The trial court having observed that the respondents have not given any reason for seeking appointment of Advocate Commissioner, proceeded to appoint Advocate Commissioner merely on the ground that there has been a series of litigation between the parties. The said reasoning of the trial court cannot be sustained in the eye of law. Therefore, the impugned order passed by



CRP.No.5197 of 2025

the court below is set aside and the Civil Revision Petition stands allowed.

Consequently, the connected miscellaenous petition is closed. No costs.

04.11.2025

Index : Yes / No

Internet : Yes / No

nr

To

The learned Additional District Munsif, Namakkal.



WEB COPY



CRP.No.5197 of 2025

S.SOUNTCHAR, J.

nr

CRP.No.5197 of 2025 and
CMP.No.26195 of 2025

04.11.2025