



CRP.No.5392 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5392 of 2025 and
CMP.No.27148 of 2025

Thangamani

... Petitioner

Vs.

1. G.M.Babu

2. G.M.Sivagurunathan

...Respondent

PRAYER: Civil Revision Petition filed Article 227 of Constitution of India, praying, to set aside the fair order and final order dated 23.07.2025 passed in I.A.No.3/2024 in O.S.No.130 of 2024 on the file of the District Munsif Court, Sathyamangalam, Erode District.

For Petitioner

: M/s.J.Titus Enock

ORDER



The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the Petitioner/plaintiff seeking appointment of Advocate Commissioner to note down the physical features. 2. The Petitioner herein filed a suit for bare injunction against the respondents. Pending suit, he filed an application seeking appointment of Advocate Commissioner to note down the physical features. In the affidavit filed in support of the petition seeking appointment of Advocate Commissioner, it was averred by the Petitioner/ plaintiff that in order to prove the existence of superstructure pleaded by the Petitioner, the appointment of Advocate Commissioner is necessary. The said application was dismissed by the Trial Court on the ground that possession of the plaintiff cannot be assessed by the Advocate Commissioner. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel for the petitioner submitted that the appointment of Advocate Commissioner to note down the physical features will help the court to come to a conclusion with regard to the existence of superstructure in the suit property.

4. In the plaint, it was clearly pleaded by the petitioner that there is a superstructure put up by him available in the suit property. The 1st defendant,



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in his written statement, clearly admitted the existence of superstructure in the suit property and claimed that the petitioner was a trespasser in the suit property and hence, he could not maintain a suit for injunction. The present suit is only for bare injunction. If the petitioner had put up superstructure in the suit property, he can produce document relating to superstructure and prove the same before the Court. The Advocate Commissioner cannot be appointed to find out whether the petitioner is in possession of the suit property or not. Therefore, the application filed by the petitioner has been rightly dismissed by the trial court. I do not find any error in the said order. Accordingly, the civil revision petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

05.11.2025

Index : Yes / No
Internet : Yes / No
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S.SOUNTHAR, J.

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To

The District Munsif Court, Sathyamangalam, Erode District.

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