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CRP.No.6265 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.6265 of 2025 and
CMP.No.31024 of 2025

A.Ashokan

... Petitioner

Vs.

1.S.Murugesan
2. Samundeeswari

...Respondents

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying to set aside the fair and Decretal order dated 20.09.2025 passed in IA No. 2/2025 in OS No. 53 / 2009 on the file of the District Munsif Court, Sholinghur, Ranipet District.

For Petitioners

: Mr.D.Ramesh Kumar

ORDER

The civil revision petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking appointment of fresh Advocate Commissioner to inspect the suit properties.



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2. The respondents/plaintiffs filed a suit seeking declaration of their easementary right over "C" schedule channel. They also sought for injunction restraining the petitioner/defendant from interfering with their joint possession over the plaint "A" schedule property. The respondents also sought for mandatory injunction directing the defendant to restore the channel in suit "C" schedule property.

3. In the above said suit, an exparte commissioner was appointed to note down the physical features that existed at the time of filing of the suit in I.A.No.83 of 2009 and he also filed his report on 02.03.2010. Though the petitioner/defendant entered appearance in the suit long back, he has not taken any steps seeking appointment of Advocate Commissioner or for re-issue of warrant to the Advocate Commissioner. After 15 years, the petitioner filed two applications in I.A.Nos.1 and 2 of 2025 seeking leave of the Court to file objection to the Advocate Commissioner's report and seeking appointment of fresh Advocate Commissioner respectively. The trial court allowed the application in IA.No.1 of 2025 and received objection filed by the petitioner. However, I.A.No.2 of 2025 seeking appointment of fresh Advocate



Commissioner was dismissed. Aggrieved by the same, the petitioner has come before this Court.

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4. The learned counsel for the petitioner submitted that earlier Advocate Commissioner filed his report after inspecting the property in his absence and therefore, a fresh Advocate Commissioner shall be appointed to inspect the property.

5. It is seen from the impugned order that *exparte* commissioner filed his report as early as 02.03.2010. Though the petitioner entered appearance long back, for the past 15 years he has not filed any application seeking appointment of fresh Advocate Commissioner. Further, the trial in the suit commenced and the same was posted for cross-examination of P.W.1 as early as 12.04.2016. The petitioner/defendant failed to cross-examine the witnesses continuously for more than 9 years and then, filed present application seeking appointment of Advocate Commissioner. As rightly pointed out by the trial Court, an *exparte* Advocate Commissioner was appointed to note down the physical features that existed at the time of filing of the suit. Now, the petitioner seeks appointment of fresh advocate commissioner after 15 years. Certainly, due to passing of time, there can be changes in the physical features and the same will not affect the rights of the properties that existed at the time



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of filing of the suit.

6. However, the petitioner is entitled to file objection for the report submitted by the ex-parte commissioner. In fact, the trial court allowed the application filed by the petitioner in IA.No.1 of 2025 seeking leave to file objections. The trial court is directed to consider the objection filed by the petitioner and if it finds necessary, warrant can be re-issued to the advocate commissioner to note down the physical features that existed as on today. However, the petitioner, who slept over his right for the past 15 years, is not entitled to seek appointment of fresh advocate commissioner as a matter of right.

7. With this observation, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

11.12.2025

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes/No.
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To
The District Munsif Court, Sholinghur, Ranipet District.



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