



C.R.P.(PD)(MD)No.275 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2025

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.275 of 2025

and

C.M.P.(MD)No.1600 of 2025

1.U.Ameer Basha
2.A.Sainabu Ammal

... Petitioners/Respondents/Defendants

Vs.

M.Mohamed Abubacker Siddiq,
Correspondent,
The Crescent Metriculation
Higher Secondary School,
Vavarkhanpalayam,
Uthamapalayam Town,
Uthamapalayam Taluk,
Theni District.

...Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the order passed in I.A.No.3 of 2024 in O.S.No.71 of 2024, dated 05.11.2024 on the file of the District Munsif Court, Uthamapalayam, Theni District.

For Petitioners : Mr.M.Mohamed Sherbudeen

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ORDER

This instant revision petition has been filed by the defendants in a suit for mandatory injunction and permanent injunction, challenging the order of appointing an Advocate Commissioner to inspect the property and file a report.

2.A perusal of the plaint reveals that the suit has been filed by the plaintiff alleging that the defendants had encroached over the suit schedule properties and they have also prayed for permanent injunction restraining the defendants from interfering with the usage of the suit schedule property.

3.The defendants have filed a written statement disputing the contentions in the plaint and they have also raised a counter claim contending that the plaintiff has encroached over some other properties.

4.Pending suit, the plaintiff had filed I.A.No.3 of 2024 for appointment of Advocate Commissioner to note down the physical features and to find out the extent of encroachment along with the Surveyor and Sketch. The said application has been allowed. Challenging the same, the present revision petition has been filed.



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5. According to the learned Counsel appearing for the petitioner/defendants, the trial Court has ordered for measurement of the plaint schedule property without issuing any directions to measure the property which is the subject matter of the counter claim. Therefore, he has challenged the said order.

6. Considering the fact that the one suit is for the mandatory injunction for removal of encroachment and counter claim is also for the mandatory injunction for removal of encroachment, appointment of Advocate Commissioner is very much essential in order to reduce the oral and documentary evidence. Therefore, this Court is not inclined to interfere in the said order. However, it is for the revision petitioner to file a memo to the Advocate Commissioner to measure the property which is the subject matter of the counter claim also.

7. With the above said observations, this revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

03.02.2025

Internet: Yes/No
Index: Yes/No
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R.VIJAYAKUMAR, J.

RJR

To

The District Munsif Court, Uthamapalayam,
Theni District.

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