



C.R.P.(PD)(MD)No.442 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2025

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CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.442 of 2025

and

C.M.P(MD)No.2539 of 2025

1.Sivaraman

2.Gurusubbiramanian

...Petitioners/Respondents 1 & 2/
Defendants 1 & 2

Vs.

1.Muthammal

2.Kandhammal

3.Veerammal

4.Guruvammal

5.Sivaramasubbiramanian

...1st Respondent/Petitioner/Plaintiff

...Respondents 2 to 4/Respondents 3 to 6/
Defendants 3 to 6

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against to set aside the Fair and Decreetal order 29.11.2024, passed by the Additional Sub Court, Srivilliputhur, in I.A.No.2 of 2023 in O.S.No.200 of 2019.

For Petitioners : Mr.K.Sudalaiyandi

For Respondents : Mr.B.Rajesh Saravanan for R1
Mr.M.Arumugam for R2
Mr.M.John for R3 & R4
No appearance for R5

* * * * *



ORDER

The defendants 1 and 2 in O.S.No.200 of 2019, on the file of the Additional Sub Court, Srivilliputhur, have filed the present revision petition, challenging the order passed by the trial Court, wherein the trial Court had appointed an Advocate Commissioner to record the evidence of the plaintiff.

2.A perusal of the records reveal that the suit had been filed for the relief of partition and separate possession. When the suit was posted for evidence of the plaintiff, the plaintiff had filed I.A.No.2 of 2023, for appointment of an Advocate Commissioner to record her evidence on the ground that she is aged about 78 years old and her vision and hearing capacity are in poor condition. Accepting the said request, the trial Court had allowed the application appointing Advocate Commissioner to record the evidence of the plaintiff in her residence. Challenging the same, the present revision petition has been filed.

3.The primary grievance of the revision petitioner is that the plaintiff is the legal heir of one Subbaiah Pillai through the first wife and whereas the defendants are the legal heirs of the said Subbaiah Pillai through the second wife. In such circumstances, the defendants feel it inconvenient to enter into the residence of the plaintiff at the time of recording the evidence. Therefore, the only request made on the side of the revision petitioners is that the plaintiff could be examined in a common place.



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4. Accordingly, the learned Counsels appearing on either side submit that the plaintiff could be examined in the Library Section of Sivaram Middle School, Mamsapuram, Srivilliputhur Taluk, Virudhunagar District. At the time of recording the evidence, the defendants as well as their counsel could be present therein.

5. In view of the above said facts, the order passed by the trial Court in I.A.No.2 of 2023, is modified to the effect that the evidence of the plaintiff could be recorded through Advocate Commissioner in the Library Section of the Sivaram Middle School, Mamsapuram, Srivilliputhur Taluk, Virudhunagar District, in the presence of the defendants and their counsel on any convenient date fixed by the Advocate Commissioner.

6. With the above said observations, the Civil Revision Petition stands partly allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petition is also closed.

06.03.2025

Internet: Yes/No
Index: Yes/No
RJR



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R.VIJAYAKUMAR, J.

RJR

To

1.The Additional Sub Judge, Srivilliputhur.

2.The Headmaster,
Sivaram Middle School, Mamsapuram,
Srivilliputhur Taluk,
Virudhunagar District.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

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