



C.R.P.(NPD)(MD)No.522 of 2025

WEB COPY THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.522 of 2025

and

C.M.P(MD)No.2870 of 2025

Devamehita

Represented by her power holder

Bibin Sajeev

...Petitioner/Petitioner/Plaintiff

Vs.

1.Thanga Leela

2.Jebin

...Respondents/Respondents/Defendants

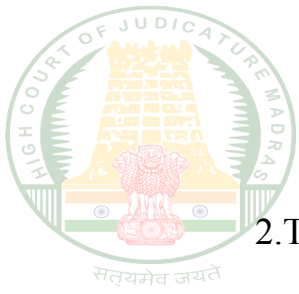
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order in I.A.No.3 of 2023 in O.S.No.173 of 2023 passed by the Principal District Munsif Court, Nagercoil, dated 29.11.2024.

For Petitioner : Mr.A.Balakrishnan

* * * * *

ORDER

The plaintiff in O.S.No.173 of 2023, on the file of the Principal District Munsif Court, Nagercoil, is the revision petitioner herein.

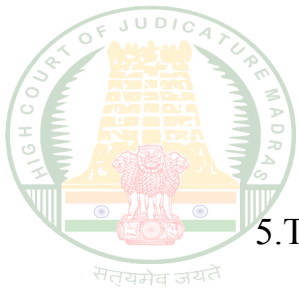


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2.The plaintiff had filed the above said suit for the relief of permanent injunction restraining the defendants from in any way trespassing over the suit schedule properties. The defendants had filed a written statement contending that the plaintiff is in possession of more areas than due to him and the plaintiff is refusing to measure the suit schedule properties. At this stage, the plaintiff had filed I.A.No.3 of 2023, for appointment of Advocate Commissioner to note down the physical features of the properties. The said application had been dismissed by the trial Court on the ground that it is for the plaintiff to prove his possession through oral and documentary evidence and Commissioner cannot be appointed for the said purpose. Challenging the same, the present revision petition has been filed.

3.According to the learned Counsel appearing for the revision petitioner, the defendants have not raised any objection in the counter for appointment of Advocate Commissioner. In such circumstances, the appointment of an Advocate Commissioner to measure the suit schedule properties as per the registered document would not cause any prejudice to either of the parties.

4.I have considered the submissions made on either side and perused the materials available on record.



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5.The suit has been filed seeking permanent injunction not to disturb the possession. In the written statement, no defence has been raised disputing the identify of the property. On the other hand, the defendants in paragraph No.11 of the written statement has contended that the plaintiff is in possession of more area than what is due to him.

6.In such circumstances, it is for the plaintiff to establish his possession through oral and documentary evidence. There is no necessity for appointment of Advocate Commissioner. The trial Court has rightly dismissed the application. There are no merits in the Civil Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

25.02.2025

Internet: Yes/No

Index: Yes/No

RJR

To

The Principal District Munsif Court, Nagercoil.

Copy to:-

The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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