



CRP(MD). No.507 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 05/06/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.507 of 2020
and CMP(MD) No.3206 of 2020**

1.Kalpana
2.Sudhakaran
3.Veeranan

... Petitioners/
Respondents/Defendants 1 to 3

Vs

1.S.Boominathan
2.K.Kavithalakshmi
3.M.Angayarkanni
4.K.Kalaiselvi
5.P.Saraveswaran

... Respondents/
Petitioners/Plaintiffs

PRAYER :-Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and executable order dated 08.11.2019 in IA No.186/2019 in OS No.629/2016 on the file of the Principal District Munsif, Madurai Town.

For Petitioners : Mr.S.Mahesh Babu
For Respondents : Mr.M.Rajaraman for R1 to R4
R5 No appearance



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ORDER

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The civil revision petition is filed against the fair and executable order dated 08.11.2019 in IA No.186/2019 in OS No.629/2016 on the file of the Principal District Munsif, Madurai Town.

2. The petitioners are the defendants 1 to 3. The respondents 1 to 4 are the plaintiffs and they filed a suit for permanent injunction, in which, an interlocutory application has also been filed for appointment of Advocate Commissioner. The said application was allowed. Challenging the same, the defendants are before this Court with this petition.

3. The learned counsel for the petitioners would submit that the petitioners are the defendants 1 to 3 in OS No.629/2016 and the said suit was filed by the plaintiffs for permanent injunction. During trial, an interlocutory application was filed under Order XXI and Rule 9 of the Code of Civil Procedure for appointment of Advocate Commissioner to measure the suit property on the basis of the sale deed with the help of Town Surveyor and for filing a report. When the trial in progress, the respondent/plaintiffs intentionally filed the said application for



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appointment of advocate commissioner under Order XXI Rule 9 of the Code in order to drag on the proceedings, to prove the case for collecting further evidence and to fill up the lacuna and hence, such a practice is to be deprecated.

4. However, the learned counsel for the respondents would submit that the petition for appointment of Advocate Commissioner has been filed for merely measuring the property of the suit property on the basis of the sale deeds with the help of a Town Surveyor and it is only a piece of evidence to determine the issue pending between the parties and further the report of the Advocate Commissioner is not a conclusive proof to decide the suit and to arrive at a conclusion by the Court below and therefore, he prays for dismissal of the petition.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The suit is for permanent injunction. In the said suit, an interlocutory application was filed to appoint an Advocate Commissioner



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for the purpose of measuring the suit property on the basis of the sale deeds of the parties with the help of Town Surveyor. After considering the plea of the plaintiffs, the Court below has allowed the petition and appointed an Advocate Commissioner only to measure the suit property on the basis of the sale deeds with the help of Town Surveyor. When the report of the Advocate Commissioner is yet to be filed, which is only a piece of evidence and it is not the conclusive proof to decide the suit by the Court below, the civil revision petition filed by the petitioners/defendants is only on presumption. On the basis of the report, the trial Court could only cull out the the extent of the property and hence, the order of the Court below need not be interfered with. Accordingly, the civil revision petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

05.06.2025

NCC : Yes/No
Index : Yes/No

RR



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TO

1. The Principal District Munsif, Madurai Town.

2. VR Section

Madurai Bench of Madras High Court, Madurai.

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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.507 of 2020**

Date : 05/06/2025