



C.R..P.(PD)(MD).No.933 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.933 of 2025

and

C.M.P(MD) No.4997 of 2025

J.Antony Jayakumar

... Petitioner/Petitioner
Defendant

Vs.

Pandeeshwari

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 30.10.2024 passed in I.A.No.4 of 2024 in O.S.No.37 of 2022 on the file of the I Additional District Court, Tirunelveli.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.R.J.Karthick



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ORDER

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The defendant in O.S.No.37 of 2022, on the file of I Additional District Court, Tirunelveli, has filed the present Civil Revision Petition challenging the dismissal of his application for appointment of an Advocate Commissioner to note down the fact that the building in dispute is being used only for residential purposes.

2. A perusal of the records reveal that the suit has been filed for the relief of recovery of possession from the defendant on the ground that the defendant is the tenant of the suit schedule properties. Pending suit, the defendant has filed written statement contending that he is using the property only for residential purposes and not for non-residential purposes. In order to establish the said fact the defendant has filed I.A.No.4 of 2024 for appointment of an Advocate Commissioner to note down the manner, in which the property is being utilized by the defendant. The said application has been dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.



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3. According to the learned counsel appearing for the revision petitioner, on the basis of false averments, that the suit premises is being used for non-residential purposes, the suit has been laid by the plaintiff to evict the defendant. Therefore, unless the defendant establishes the fact that the property is being used only for residential purpose, he would be put to great hardship.

4. Per contra, the learned counsel appearing for the respondent herein has contended that the appointment of an Advocate Commissioner in the suit for recovery of possession from the tenant is not necessary. Therefore, he prayed for sustaining the order passed by the trial Court.

5. Heard both sides and perused the materials available on record.

6. When the plaintiff has filed the suit for the relief of recovery of possession, based upon the allegation that the tenant is using the property for non-residential purposes instead of residential purposes, the burden is upon the plaintiff to establish the same. Therefore, there is no necessity for the defendant to file any such application. It is for the trial Court to arrive at a finding based upon the evidence to be let in by the landlord.



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7. With the above said observation, this Civil Revision Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

25.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The I Additional District Court,
Tirunelveli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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