



C.R.P.(MD)No. 961 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.961 of 2022

and

C.M.P.(MD)No.3807 of 2022

Muthupandi

...Petitioner

Vs.

Harichandran

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 18.02.2022 passed in I.A.No.11 of 2021 in O.S.No.73 of 2015, on the file of Learned District Munsif Court, Srivaikuntam.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.H.Arumugam



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ORDER

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This petition has been filed seeking to set aside the fair and decreetal order dated 18.02.2022 passed in I.A.No.11 of 2021 in O.S.No.73 of 2015, on the file of Learned District Munsif Court, Srivaikuntam.

2.Learned Counsel for the petitioner would submit that the petitioner is the plaintiff in O.S.No.73 of 2015. Earlier, he filed a petition for appointment of an Advocate Commissioner under Order 26 Rule 9 of CPC, in I.A.3 of 2019, to measure the property with qualified surveyor. The trial Court allowed the said I.A. and directed the Advocate Commissioner to measure the property with qualified Surveyor and file a report. However, the Commissioner in his report categorically held that as per the revenue records, he was not able to measure the property. However, with the available records, he measured the property and filed a report with a plan. The grievance of the petitioner is that instead of measuring the property from the western side, the Advocate Commissioner has measured the property from the eastern side and hence, there is a confusion in identifying the property. Unless it is identified properly, irreparable loss will be caused to the petitioner. Therefore, the petitioner filed I.A.No.11 of 2021, for re-issuance of warrant to the Advocate Commissioner to once again measure the property with the assistance of the District Surveyor. The said application was



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dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.

3.Per contra, learned Counsel for the respondent would submit that already the Advocate Commissioner has filed a report before the trial Court and the petitioner can very well canvass all those points before the trial Court instead of filing another I.A. which is unwarranted. He further submitted that the impugned I.A. has been filed at the time of pronouncing judgment in order to drag on the proceedings and the trial Court has rightly rejected the said application. Hence, he prays for dismissal of the present Civil Revision Petition.

4.Heard the learned Counsel on either side and perused the materials available on record.

5.Admittedly, the petitioner filed an application earlier for appointment of Advocate Commissioner to measure the suit schedule property with the help of the qualified surveyor. The said I.A. came to be allowed and the Advocate Commissioner also measured the property with the available records and submitted a report before the trial Court. The petitioner claims that there is a confusion in identifying the property as per the report of the Advocate



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Commissioner, since the Advocate Commissioner has measured the property from the eastern side instead of measuring the same from the western side. If at all the petitioner has any grievance with regard to the report filed by the Advocate Commissioner, he can very well raise all those points before the trial Court by way of objections. Rather, filing another I.A. for re-issuance of warrant to the Advocate Commissioner is unwarranted, that too when the suit itself is at the stage of pronouncing judgment. Hence, this Court does not find any error in the order passed by the trial Court. However, the petitioner is at liberty to file his objections, if any, and the trial Court is directed to consider the objections raised by the petitioner at the time of judgment and dispose of the suit within a period of three [3] months from the date of receipt of a copy of this order.

6. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

07.07.2025

Internet: Yes/No

Index: Yes/No

MR

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To

- 1.The District Munsif Court,
Srivaikuntam.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

MR

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