



CRP(MD). No.1011 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 01/07/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1011 of 2022
and CMP(MD) No.4036 of 2022**

S.Jameela Beevi

... Petitioner

Vs

1. R.Yasmin Banu

2. R.Shabana Asmi

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the impugned fair order decreetal order dated 13-09-2019 made in I.A.No.627 of 2017 in O.S.No.920 of 2017 on the file of the Second Additional Subordinate Judge,Tiruchirapalli and set aside the same by allowing this Civil Revision Petition as prayed for.

For Petitioner : Mr.K.S.Kathiravan

For Respondents : Mr.V.Vishnu

ORDER

The Civil Revision Petition is filed against fair order decreetal order dated 13-09-2019 made in I.A.No.627 of 2017 in O.S.No.920 of



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2017 on the file of the Second Additional Subordinate Judge, Tiruchirapalli.

2. The petitioner is a tenant in OS No.920/2017 on the file of the Additional Sub Judge, Trichy, and the same is filed by the respondents/plaintiffs for declaration to declare that the sale deed executed by mother of the plaintiffs to the defendant dated 22.08.2005 is null and void and in respect of second schedule property for claiming partition and separate possession. In the said suit, the respondents/plaintiffs filed IA No.627/2017 for appointment of Advocate Commissioner to measure the property with the help of qualified Surveyor and file a report and the said petition was allowed. Challenging the same, the petitioner is before this Court.

3. The learned counsel would submit that when the suit is filed for declaration and partition, the appointment of Advocate Commissioner to measure the property with the help of Surveyor is unnecessary and the prayer that has been sought for in the suit is to decide the legal right and entitlement of share of plaintiffs, the appointment of Advocate



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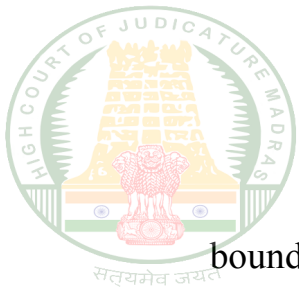
Commissioner is of no use and hence, prays for appropriate direction.

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4. However, the learned counsel for the respondents would submit that since the respondents/plaintiffs disputed the extent of property, which was purchased by the petitioner/defendant from the mother of the plaintiffs/respondents and at the time of purchase, the respondents are minor and after they become major, they filed the suit against the petitioner and the interlocutory application was filed for appointment of Advocate Commissioner under Order XXI Rule 9 of the Code of Civil Procedure only to measure the property in order to prove the boundaries and extent and the same was rightly allowed and hence no prejudice would be caused to the petitioner if a report is filed by the Advocate Commissioner.

5. I have considered the rival submissions and perused the materials available on record.

6. Considering the facts and circumstances of the case, since the Advocate Commissioner was appointed in order to ascertain the



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boundaries and extent of the suit property, which, in the considered view of this Court, would not cause any prejudice to the petitioner. When the respondents disputed the extent and boundaries of the property, the trial Court rightly appreciated their case and allowed the interlocutory application for appointment of Advocate Commissioner. Accordingly, the Civil Revision is dismissed. Since the suit is of the year 2017, the trial Court is directed to dispose of the said suit within a period of 12 months from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed.

01.07.2025

NCC : Yes/No

Index : Yes/No

RR

TO

1.The Second Additional Subordinate Judge,Tiruchirapalli

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.1011 of 2022**

Date : 01/07/2025