



C.R..P.(PD)(MD).No.1196 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.1196 of 2025

and

C.M.P(MD) No.6407 of 2025

C.Raja

... Petitioner/Petitioner/
Plaintiff

Vs.

1. K.Gunasekaran

2. G.Shanthi

... Respondents/Respondents/
Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the fair and decreetal order dated 16.11.2024 made in I.A.No.11 of 2023 in O.S.No.286 of 2022 on the file of the District Munsif Court, Karaikudi and set aside the same.

For Petitioner : Mr.VA.Shanmugaraj

ORDER

The plaintiff in O.S.No.286 of 2022 on the file of the District Munsif Court, Karaikudi, has filed the present Civil Revision Petition challenging the dismissal of his application for appointment as an Advocate Commissioner.



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2. A perusal of the plaint averments reveal that the suit has been filed for the relief of permanent injunction with regard to the Survey No.208/1. The defendants have filed their written statement admitting the title and possession of the plaintiff property in S.No.208/1. The defendants have further claimed that they are the owner of S.No.204/9 and there is a common pathway in between these two survey numbers. According to the defendants, the common pathway is located in S.No.204/10.

3. The plaintiff has filed I.A.No.11 of 2023 for appointment of an Advocate Commissioner to note down the physical features of the suit schedule property. The trial Court has proceeded to dismiss the said application on the ground that the plaint does not disclose any allegations relating to the encroachment of a common pathway. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, the defendants are encroaching upon the common pathway and therefore, appointment of an Advocate Commissioner is necessary for establishing the same.



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5. Considering the above said facts, this Court is not inclined to accept the said contentions. The suit has not been filed relating to S.No.204/10. There is no allegation to the effect that common pathway has been encroachment by the defendants, disturbing the plaintiff. In case, if there is any disturbance to usage of the common pathway, it is for the plaintiff to workout his remedy in the manner known to law.

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

17.04.2025

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

1. The District Munsif Court,
Karaikudi.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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