



CRP(MD). No.1569 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 11/06/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1569 of 2025
and CMP(MD) No.8102 of 2025**

1. T.Rajasekaran,
2. T.Baskaran,
3. T.Vijayakumar

... Petitioners/
Defendants

Vs

1. A.Nizaar Ahammed
2. A.Noor Ahammed
3. Madakpool Ahammed

... Respondents/Plaintiffs

PRAYER :- Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records relating to the fair and decreetal order passed in I.A.No. 3 of 2024 in O.S.No. 487 of 2019 dated 21.01.2025 on the file of the 1st Additional District Munsif Court, Trichy and quash the same.

For Petitioners : Mr.V.B.Ilanchezian

For Respondents : Mr.N.Anandakumar for R1 to R3



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ORDER

This Civil Revision Petition has been filed against I.A.No. 3 of 2024 in O.S.No. 487 of 2019 dated 21.01.2025 on the file of the 1st Additional District Munsif Court, Trichy

2. The learned counsel for the petitioner would submit that the petitioners are defendants in the suit filed by the respondents/plaintiffs. The suit is for permanent injunction, in which, the petitioners filed an application under Order XXVI Rule 9 of the Code of Civil Procedure for appointment of Advocate Commissioner to survey the property and file a report along with the map. However, the said petition was dismissed. The petitioners are aggrieved by the same and hence, they are before this Court.

3. The learned counsel for the petitioners would submit that the trial Court dismissed the petition on the ground that the evidence on the side of the plaintiffs was over and insofar as injunction suit is concerned, either the petitioners/defendants or the respondents/plaintiffs have to prove their case on their own and not by way of appointment of Advocate



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Commissioner. However, it is contended that the petitioners are in possession and enjoyment of the suit property, where, the respondents/plaintiffs unnecessarily filed a suit for permanent injunction restraining the petitioners to interfere. However, the petitioners are not interfering with the possession and enjoyment of the respondents and in order to ascertain the possession of the property, it is necessary to appoint an Advocate Commissioner. However, the same was dismissed by the trial Court and hence, prays for interference.

4. The learned counsel for the respondents would contend that already plaintiffs evidence is over and the Commissioner cannot decide the possession or title and it is for the Court to decide on the basis of the available pleadings and evidence.

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

6. In the suit filed for permanent injunction, the burden lies on the plaintiffs and defendants to prove their case by let in evidence and by



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marking necessary documents, where there is no role for the Advocate Commissioner to survey the land or to decide the possession. Hence, the trial Court rightly dismissed the application for appointment of Advocate Commissioner. Accordingly, no interference is warranted to the order passed by the trial Court and the civil revision petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

11.06.2025

NCC : Yes/No
Index : Yes/No
RR

TO

1.The 1st Additional District Munsif Court, Trichy

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.1569 of 2025**

Date : 11/06/2025