

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1667 of 2025

and

C.M.P.(MD)No.8834 of 2025

1.Periyasamy
2.Jeeva
3.Parthasarathy

...Petitioners

Vs.

1.Krishnakumar
2.Jeyalakshmi
3.Kalyani
4.Seethalakshmi
5.Parvadavarthini
6.Sriram
7.Padma
8.Bagyalakshmi
9.Bhuvaneswari
10.Hemalatha
11.Prasad

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to allow the Civil Revision Petition and set aside the order dated 05.04.2025 made in I.A.No.6 of 2024 in O.S.No.658 of 2023, on the file of the 2nd Additional Sub Judge, Trichirappalli.



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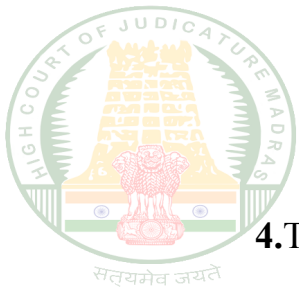
For Petitioner : Mr.G.Karnan

ORDER

This petition has been filed seeking to quash the order dated 05.04.2025 made in I.A.No.6 of 2024 in O.S.No.658 of 2023, on the file of the 2nd Additional Sub Judge, Trichirappalli.

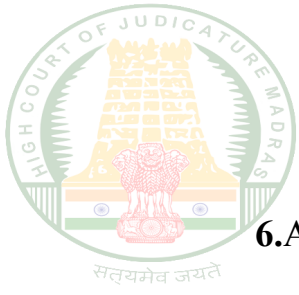
2.Since no adverse orders are passed, notice to the respondents is dispensed with.

3.The petitioners are the defendants in the suit in O.S.No.658 of 2023. The plaintiffs filed a suit for permanent injunction restraining the defendants, their men and agents from interfering with the possession of the A, B and C schedule property and to declare that the 4th item of the property belongs to the plaintiffs. In the said suit, the petitioners filed an interlocutory application in I.A.No.6 of 2024, for appointment of an Advocate Commissioner to visit the suit schedule property with the assistance of an agricultural Scientist and to note down the physical features of the property and to find out the age of the coconut trees in the suit schedule property. The said application came to be dismissed. Aggrieved over the same, the petitioners are before this Court with the present Civil Revision Petition.



4.The learned counsel appearing for the petitioners would submit that the respondents / plaintiffs claim that they are in possession of the A, B and C items of the suit schedule property, whereas it is alleged that the petitioners are in possession of the D item of the suit schedule property. Hence, the petitioners have filed an application in I.A.No.6 of 2024, for appointment of an Advocate Commissioner. However, the same was dismissed. He further submits that only if an Advocate Commissioner is appointed, the facts regarding the suit schedule property would come to light. Therefore, he prays for appropriate orders from this Court.

5.Considering the facts and circumstances of the case, the burden lies on the respondents / plaintiffs to establish their title with regard to items A, B and C. If that is established, then the burden shifts on the petitioner to disprove the same. While such being the case, finding out the age of the trees will not help in any way deciding the title over the property. Hence, the prayer sought for in I.A.No.6 of 2024, for appointment of Advocate Commissioner is misconceived. The trial Court has rightly appreciated the facts and dismissed the said petitioner. This Court does not find any reasons to interfere with the same.



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

19.06.2025

Internet: Yes/No

Index: Yes/No

MR



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To

- 1.The 2nd Additional Sub Judge,
Trichirappalli.
- 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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