



C.R.P.(PD)(MD).No.1653 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1653 of 2025

and

C.M.P.(MD)No.8698 of 2025

C.Kalayarasan

... Petitioner

Vs.

1.Edser Raj

2.The District Collector,
Dindigul.

3.The Revenue Divisional Officer,
Kodiakanal

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of the Constitution of India, to call for the records pertaining to the fair and ex-order made in I.A.No.03 of 2024 in O.S.No.120 of 2024 on the file of the District Munsif cum Judicial Magistrate No.1, Kodaikanal dated 03.04.2025 and set aside the same and thereby allow the revision.

For Petitioner	: Mr.L.Praveenkumar
For R2 & R3	: Mr.P.T.Thiraviyam
	Government Advocate



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ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order passed in I.A.No.2 of 2021 in O.S.No.42 of 2021 on the file of the Additional District Munsif Court, Lalgudi dated 22.11.2024.

2.The petitioner is the third defendant in the suit in O.S.No.120 of 2024 filed by the first respondent herein for declaration and permanent injunction. He was appointed as power of attorney to initiate proceedings as against the respondent/plaintiff to cancel the revenue patta granted in favour of the plaintiff and to conduct the case. Thereby, the Revenue Divisional Officer issued an enquiry notice to the first respondent/plaintiff. Thereafter, the plaintiff filed a suit for declaration to declare the enquiry notice issued by the second respondent as null and void and for a consequential permanent injunction. During the pendency of the civil suit, the plaintiff filed an application under Order 26 Rule 9 of CPC to note down the physical features of the subject property with the help of a qualified surveyor and the same was allowed. Challenging the same, the present Civil Revision Petition is filed.



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3.The learned counsel for the petitioner submits that admittedly, the Government assigned the subject property to one Bharathi. However, the first respondent /plaintiff created forged sale deed in respect of the subject property and on that basis, the plaintiff has obtained patta and is claiming title over the subject property. Proceedings to cancel the patta that was obtained fraudulently is also initiated before the revenue authorities. In such circumstances, if an Advocate Commissioner to note down the physical features is appointed, it will adversely affect the interest of the petitioner. Hence, the petitioner has filed the present Civil Revision Petition.

4.Since no adverse order is going to be passed in this petition as against the first respondent, notice to the first respondent is dispensed with.

5.The learned Government Advocate appearing for the second and third respondents would submit that admittedly, assignment was made in favour of one Bharathi, who is an ex-service man. Contrary to his interest, the first respondent created forged document and tried to grab the property. Thereby, he filed vexatious suit challenging the enquiry notice issued by the second respondent and it is not sustainable one.



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6.Considering the facts and circumstances of the case, this Court is not inclined to go into the merits and demerits of the issue involved in the suit. In the present case, an order for appointing of Advocate Commissioner to note down the physical features of the suit property with a qualified surveyor is under challenge. By appointing an Advocate Commissioner to measure the suit property, no prejudice will be caused to the petitioner. The report of the Advocate Commissioner is itself is a piece of evidence to enable the Court to arrive at a definite conclusion and the same is not a conclusive proof either in favour of the petitioner or in favour of the respondent. Hence, this Court is not inclined to interfere with the order of the trial Court.

7.Accordingly, this Civil Revision Petition is dismissed with liberty to the petitioner to canvass all his defense before the trial Court, if the Commissioner files an adverse report as against the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2025

NCC : Yes/No
Internet : Yes / No
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To

- 1.The District Munsif cum Judicial Magistrate No.1,
Kodaikanal.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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