



C.R.P.(PD)(MD).No.1608 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.1608 of 2025

and

C.M.P.(MD)No.8322 of 2025

Rethinasamy

... Petitioner

Vs.

1.Leema Rosy

2.Sudhakar

3.The District Collector,
Trichy District, Trichy.

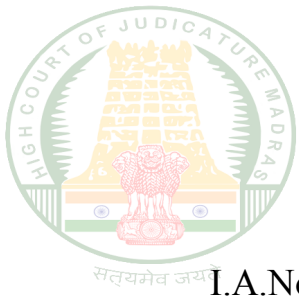
4.The Revenue Divisional Officer,
Lalgudi Taluk, Trichy District.

5.The Tahsildar,
Lalgudi Taluk,
Trichy District.

6.The Village Administrative Officer,
Venkatachalapuram Village,
Lalgudi Taluk,
Trichy District.

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in



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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.

For Petitioner : Mr.T.Leninkumar
For R3 to R6 : Mr.B.Saravanan
Additional Government Pleader
For R1 & R2 : Mr.J.Madhu

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 plaintiff in the suit in O.S.No.42 of 2021 filed for declaration, permanent and mandatory injunction and for a direction to the revenue officials to issue patta in the name of the petitioner. During the pendency of the civil suit, the petitioner/plaintiff filed an application for appointment of Advocate Commissioner under Order 26 Rule 9 and Section 151 of CPC. The said application was dismissed. Challenging the same, the present Civil Revision Petition is filed.

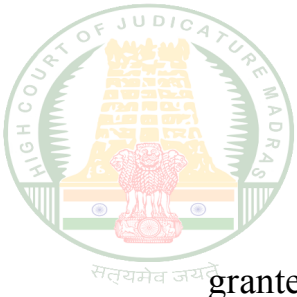


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3.The learned counsel for the petitioner would submit that the relief sought for by the petitioner in the application filed for appointment of Advocate Commissioner is very simple, viz., to appoint an Advocate Commissioner to note down the physical features of the suit property and measure the property with the help of a qualified surveyor and permit the petitioner to produce his title deeds enabling the qualified surveyor to measure the property by the Advocate Commissioner. However, the same was dismissed and the same is not sustainable.

4.The learned counsel for the respondents 1 and 2 would submit that the prayer sought by the petitioner in the suit is declaration and mandatory injunction. It is for the plaintiff to establish his title before the trial Court by adducing proper document and evidence. Instead of establishing his title, seeking to appoint an Advocate Commissioner is only to drag on the proceedings. By appointing an Advocate commissioner, no purpose would be served for deciding the suit. He would further submit that the petitioner/plaintiff encroached the poromboke land belonged to the third respondent. The learned counsel for the respondents 1 and 2 further submits that this Court may permit the respondents to produce the assignment patta



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granted in his favour at the time of measuring the property. He would further submit that originally, the land was assigned to the second respondent and the patta stood in his name. However, the name of the petitioner/plaintiff was mistakenly added in the patta as joint pattathars. The second respondent also filed an appeal before the Revenue Divisional Officer to remove the name of the petitioner from the patta for the suit property and the same is pending.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.In the present case, admittedly, the petitioner filed a suit for declaration and for issuance of patta in his name. During the pendency of the suit, he filed an application in I.A.No.2 of 2021 for appointment of an Advocate Commissioner to note down the physical features of the property and measure the property with a qualified surveyor. By appointing an Advocate Commissioner and a getting report from the Advocate Commissioner would not cause any prejudice to the defendants. It is true that the report of the Advocate Commissioner is not a conclusive proof and it is only a piece of evidence. Even if the Advocate Commissioner's report goes



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against the petitioner or the respondents, they can very well file an objection before the trial Court at the time of trial.

7. Accordingly, the order passed in I.A.No.2 of 2021 is set aside and this Civil Revision Petition is allowed. The trial Court is directed to appoint an Advocate Commissioner for the purpose of measuring the suit property and to note down the physical features of the property with the help of a qualified surveyor. The Advocate Commissioner is directed to measure the property and file a report along with necessary photographs before the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2025

NCC : Yes/No
Internet : Yes / No
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To

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

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M.DHANDAPANI,J.

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