



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1259 of 2021

and

C.M.P.(MD)No.7258 of 2021

1.G.Kanthammal
2.G.Subramaian
3.G.Alagammal
4.G.Murugesan

...Petitioners

Vs.

1.C.Nageswari
2.G.Shanmugam

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 20.01.2020 passed in I.A.No.01 of 2019 in O.S.No.265 of 2016, on the file of the District Munsif cum Judicial Magistrate Court No.1, Srivilliputhur.

For Petitioners : Mr.M.P.Senthil

For Respondents : No appearance



ORDER

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This petition has been filed seeking to quash the order dated 20.01.2020 passed in I.A.No.01 of 2019 in O.S.No.265 of 2016, on the file of the District Munsif cum Judicial Magistrate Court No.1, Srivilliputhur.

2.The petitioners are the defendants in the suit in O.S.No.265 of 2016, in which the first respondent / plaintiff filed an I.A.No.01 of 2019 under Order 26 Rule 9 for appointment of Advocate Commissioner to note down the physical features and to measure the property. The said I.A. came to be allowed. Challenging the same, the present Civil Revision Petition has been filed.

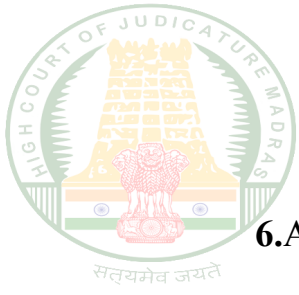
3.Learned counsel appearing for the petitioners would submit that admittedly, the first respondent filed a suit for declaration and permanent injunction, in which she has to establish the title before the trial Court, for which there is no necessity for appointment of Advocate Commissioner to note down the physical features. Of course, the measurements are not in dispute. Only the title is in dispute. However, without considering the same, the trial Court has appointed an Advocate Commissioner and hence, prays for allowing this Civil Revision Petition.



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4. Though the names of the respondents are printed in the cause list, none appears. Considering the pendency of the litigation, this Court chooses to pass orders in the absence of the respondents.

5. The facts of the present case are not in dispute. The first respondent / plaintiff, in the pending suit filed I.A.No.01 of 2019, for appointment of Advocate Commissioner to note down the physical features and to measure the suit schedule property. The said petition came to be allowed, which is objected by the petitioners herein. Appointment of Advocate Commissioner will no way cause prejudice to the petitioners herein and this Court does not find any error in the order impugned. However, the trial Court failed to add the necessity of the assistance of the qualified surveyor. Hence, the learned Advocate Commissioner appointed by the trial Court is directed to visit the property and note down its physical features in accordance with the documents and the revenue records with the assistance of the qualified surveyor and measure the property and thereafter, file a report before the trial Court. However, if any adverse report is filed by the Advocate Commissioner as against the petitioners, then the petitioners are at liberty to file objection report before the trial Court.



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

13.06.2025

Internet: Yes/No

Index: Yes/No

MR



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C.R.P.(MD)No.1259 of 2



To

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



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C.R.P.(MD)No.1259 of 2



M.DHANDAPANI, J.

MR

C.R.P.(MD)No.1259 of 2021

13.06.2025