



CRP(MD). No.1195 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 18/06/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1195 of 2019
and CMP(MD) Nos.7102 to 7103, 7106 to 7111 of 2024**

Sumanthra

... Petitioner/
Plaintiff

Vs

1. Gopal
2. Arumugam
3. Ganesan
4. Kumar
5. Rajavelu
6. Selvi
7. Chellammal
8. Chandra
9. Suseela

... Respondents

PRAYER :-Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records relating to the Fair and Decreetal order dated 28.01.2019 passed in IA No.667 of 2018 in OS No. 1319 of 2001, on the file of the learned II Additional District Munsif, Tiruchirapalli and set aside the same.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.R.Subramanian for R4 to R9



CRP(MD). No.1195 of 2019

ORDER

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This Civil Revision Petition is filed challenging the fair and decreetal order dated 28.01.2019 passed in IA No.667 of 2018 in OS No. 1319 of 2001, on the file of the II Additional District Munsif, Tiruchirapalli.

2. The petitioner is the plaintiff and she filed a suit for declaration declaring the suit schedule property belong to her and recovery of possession in respect of item Nos.1 and 2 and removal of thatched shed and asbestos sheet and to grant permanent injunction restraining the defendants from interfering with the possession and enjoyment of item No.2 of the suit schedule property. In the said suit, the respondents/defendants 2 and 3, 5 to 11 filed an application for appointment of Advocate Commissioner to inspect the suit schedule property with the help of Surveyor and to file a report and the said petition was allowed. Challenging the same, the petitioner/plaintiff is before this Court with this civil revision petition.



CRP(MD), No.1195 of 2019

3. The learned counsel for the petitioner would submit that the petitioner is the plaintiff and she has to prove the title before the trial Court, wherein, the respondents/defendants filed IA No.667 of 2018 for appointment of Advocate Commissioner, which is unnecessary. When the duty is cast upon the plaintiff to establish the title before the trial Court, appointment of Advocate Commissioner will not serve any purpose. On the said ground, the learned counsel prays for setting aside the order impugned.

4. The learned counsel for the respondents 4 to 9, on the other hand, would submit that an application was filed for appointment of Advocate Commissioner by the defendants for measurement of the suit properties with the help of a qualified surveyor and that no prejudice would be caused to the plaintiff and further the Commissioner's report is only a piece of evidence and the report is one of the deciding factor to determine the issue between the parties and hence, no interference is warranted to the order of the Court below.

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



CRP(MD), No.1195 of 2019

WEB COPY

6. Upon considering the submissions made, this Court is of the considered opinion that the report of the Advocate Commissioner is a piece of evidence to decide the issue and hence no prejudice would be caused to the petitioner by appointment of Advocate Commissioner. It is for the plaintiff to prove the case before the trial Court by adducing necessary evidence. Accordingly, the civil revision petition is dismissed. However, liberty is granted to the petitioner to file objection, if the report of the Commissioner is contrary to her interest. At this juncture, since the suit is of the year 2001, the learned counsel prays for speedy disposal of the suit. Considering the fact that the suit is of the year 2001, the trial Court shall take endeavour to conclude the suit within a period of twelve months from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petitions are closed.

18.06.2025

NCC : Yes/No
Index : Yes/No

RR



CRP(MD). No.1195 of 2019

TO

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1.The II Additional District Munsif, Tiruchirapalli

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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CRP(MD). No.1195 of 2019

M.DHANDAPANI,J

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**ORDER
IN
CRP(MD) (NPD) No.1195 of 2019**

Date : 18/06/2025