

C.R.P.(PD)(MD).No.1701 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.1701 of 2025
and
C.M.P.(MD)No.9115 of 2025

Karthikeyan

... Petitioner

Vs.

Jeganathan (died)

1.K.Mallika

2.Sivakumar

3.Sathish Kumar

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.11.2024 in I.A.No.06 of 2023 in O.S.No.255 of 2019 on the file of the Principal District Munsif Court, Kulithalai.

For Petitioner : Mr.K.Govindarajan
for Mr.S.Pon Senthil Kumaran



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ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order dated 13.11.2024 in I.A.No.06 of 2023 in O.S.No.255 of 2019 on the file of the Principal District Munsif Court, Kulithalai.

2.The petitioner is the defendant in O.S.No.255 of 2019. The respondent/plaintiff filed a suit for declaration and injunction. During the pendency of the suit, the respondent/plaintiff filed an application under Order 26 Rule 9 of CPC for appointment of an Advocate Commissioner to note down the physical features of the suit properties with the help of a qualified surveyor. The said application was allowed and the Advocate Commissioner was appointed. As such, the Advocate Commissioner inspected the suit property and filed a report before the trial Court. However, the report adversely affected the interest of the petitioner. Thereby, the petitioner filed an application before the trial Court in I.A.No.6 of 2023 seeking to strike off the report filed by the Advocate Commissioner. The said application was dismissed. Challenging the same, the present Civil Revision Petition is filed.



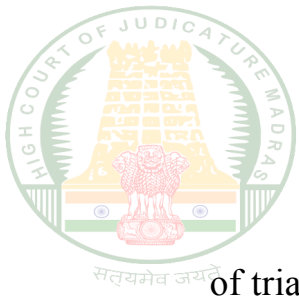
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3.The learned counsel for the petitioner would submit that though the petitioner files this petition to strike off the report filed by the Advocate Commissioner on the ground that the trial Court has not discussed the merits and demerits of the report filed by the Advocate Commissioner and though the petitioner sought for an appointment of fresh Advocate Commissioner, now he fairly submits that a direction shall be issued to the trial Court to consider the objection made by the petitioner with regard to the Advocate Commissioner at the time of trial and if it is necessary, permission shall be granted for appointment of an Advocate Commissioner or to examine the Surveyor along with 'A' Register before the trial Court to disprove the commissioner's report.

4.Since no adverse order is going to be passed as against the respondents, notice to the respondents is dispensed with.

5.Considering the limited request made by the petitioner, this Civil Revision Petition is **dismissed** with liberty to the petitioner to raise all his objections with regard to the report of the Advocate Commissioner at the time



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of trial and also with a direction the trial Court to consider the objection to be raised by the petitioner and grant permission to the petitioner to examine the Surveyor to disprove the report of the Advocate Commissioner. It is also made clear that if necessary, permission shall be granted to the petitioner to seek for an appointment of Advocate Commissioner afresh. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2025

NCC : Yes/No
Internet : Yes / No
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To

- 1.The Principal District Munsif Court, Kulithalai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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