

C.R.P(MD).No.1313 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2025

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1313 of 2021
and C.M.P(MD).No.7577 of 2021

1.Annadurai

2.Raman

3.Ramesh

4.Vijayalakshmi Manoharan

...Petitioners

Vs.

1.Sivan

2.Muniyasamy

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 12.02.2021 passed in I.A.No.1 of 2020 in O.S.No.56 of 2016 on the file of the learned Additional District Munsif, Thoothukudi.

For Petitioners : Mr.M.P.Senthil

For Respondents : No appearance



C.R.P(MD).No.1313 of 2021

WEB COPY

ORDER

This civil revision petition has been filed by the petitioners to set aside the fair and decreetal order dated 12.02.2021 passed in I.A.No.1 of 2020 in O.S.No.56 of 2016 on the file of the learned Additional District Munsif, Thoothukudi.

2. The learned counsel appearing for the petitioners would submit that the petitioners are the defendants in the suit in O.S.No.56 of 2016. During the trial, the petitioners filed I.A.No.1 of 2020 for appointment of Advocate Commissioner to note down the physical features of the subject property and measure the same with the assistance of qualified surveyor and the said petition was dismissed on the ground that the petitioners are only defendants and it is for the plaintiffs to establish their case before the trial Court. Challenging the same, this revision petition has been filed.

3. However, the learned counsel appearing for the petitioners respectfully submits that the role of the plaintiff and the defendant is merely to assist the Court in arriving at a fair and just conclusion in order to resolve the dispute between the parties. In this context, the appointment of advocate



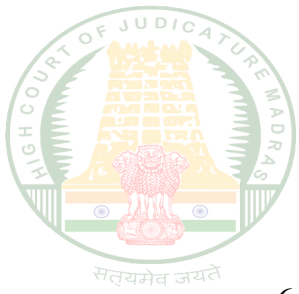
commissioner is required for note down the physical features of the subject property and measure the same with the assistance of qualified surveyor.

Such an exercise would not cause any prejudice to the respondents/ plaintiffs.

He further submitted that appointment of Advocate Commissioner is too only a piece of evidence before the trial Court and it is not a conclusive proof to determine the issue between the parties. Hence, the order of trial Court rejecting the petition for appointment of Advocate Commissioner is not legally sustainable and the same is liable to be set aside.

4. Though the names of the respondents have been printed in the cause-list, no one appeared on behalf of them.

5. In view of the above submission and considering the pendency of the litigation, this Court is inclined to set aside the order of the trial Court. Accordingly, the order passed by the learned Additional District Munsif, Thoothukudi, in O.S.No.56 of 2016, dated 12.02.2021 is hereby set aside. The trial Court is directed to appoint an Advocate Commissioner within a period of two weeks from the date of receipt of a copy of this order and fix remuneration with a condition to file a report and thereafter, dispose the suit in accordance with law, if the suit is not already disposed of.



C.R.P(MD).No.1313 of 2021

WEB COPY

6. This Civil Revision Petition is disposed of with the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

12.06.2025

NCC:Yes/No

Index:Yes/No

Rmk

To:-

1.The Additional District Munsif, Thoothukudi.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.R.P(MD).No.1313 of 2021

M.DHANDAPANI, J.

Rmk

C.R.P.(MD)No.1313 of 2021

12.06.2025