



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1547 of 2021

and

C.M.P.(MD)No.8494 of 2021

S.P.Jeganatha Raja

...Petitioner

Vs.

Lingammal

...Respondent

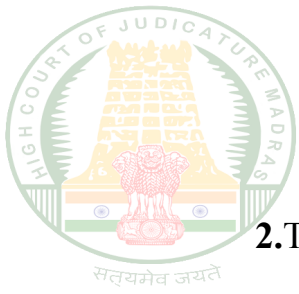
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to allow the Civil Revision Petition to set aside the fair and decreetal order dated 15.10.2019 made in I.A.No.1 of 2019 in O.S.No.42 of 2019, on the file of the District Munsif Court, Rajapalayam.

For Petitioner : Mr.S.Venkatesh

For Respondent : Mr.P.Subbaraj

ORDER

This petition has been filed seeking to quash the order dated 15.10.2019 made in I.A.No.1 of 2019 in O.S.No.42 of 2019, on the file of the District Munsif Court, Rajapalayam.



2.The petitioner filed a suit for permanent injunction restraining the respondent from interfere his enjoyment of the pathway and drawing water from the well and for mandatory injunction. In the said suit, the petitioner preferred an interlocutory application in I.A.No.341 of 2016, for appointment of Advocate Commissioner to note down the physical features of the suit schedule property and the said I.A. was allowed in his favour and the learned Advocate Commissioner filed a report. However, the encroached portion of the respondent is not mentioned in the report and not in the plan and thereby, the petitioner filed the impugned I.A. to re-issue warrant to the Advocate Commissioner to mention the encroached portion in the plan and the same was dismissed. Challenging the same, the present Civil Revision Petition has been filed.

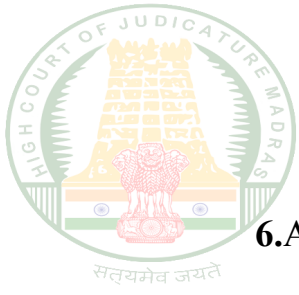
3.Learned Counsel for the petitioner would submit that though the Advocate Commissioner filed a report with regard to the encroached portion, however, the same is not reflected in the plan, which adversely affects the interest of the petitioner. Thereby, the petitioner filed I.A.No.01 of 2019, to reissue warrant to incorporate the encroached portion in the plan. The same was rejected. Therefore, he prays for appropriate orders.



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4.Learned Counsel for the respondent would submit that already the trial Court appointed an Advocate Commissioner on the basis of the application made by the learned Counsel for the petitioner. The Advocate Commissioner also inspected the property and filed a report. Thereafter, the petitioner filed another I.A. for re-issuance of warrant for incorporation of the encroached portion in the plan which is unwarranted. Therefore, he prays for dismissal of this petition.

5.Admittedly, in the present case, already the petitioner filed an application for appointment of Advocate Commissioner and the same was allowed. The Advocate Commissioner also filed a report. The petitioner has subsequently filed another I.A. for reissuance of warrant to the Advocate Commissioner, seeking to incorporate the portion encroached by the respondent in the plan. Such a plea cannot be raised by the petitioner. Mere inclusion of the encroached portion in the Advocate Commissioner's plan will not in any way improve the case of the petitioner. Moreover, the Advocate Commissioner has no right to decide the possession. Hence, there are no grounds to interfere with the order impugned.



6. Accordingly, this Civil Revision Petition stands dismissed. 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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To

- 1.The District Munsif Court,
Rajapalayam.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

MR

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