



C.R.P.(MD)No.1850 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.1850 of 2025

and

C.M.P(MD) No.10234 of 2025

S.Kathiresan

... Petitioner/Petitioner
Plaintiff

Vs.

1. Kalameri

2. Eswari

3. Sathayee

4. Dhandapani

... Respondents/Respondents/
Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records pertaining to the fair and decreetal order in I.A.No. 1 of 2023 in O.S.No.1397 of 2012, dated 30.06.2023 on the file of the II Additional District Munsif Court, Tiruchirappalli and set aside the same by allowing the present Civil Revision Petition.

For Petitioner : Mr.R.Rajaraman

For R1 : Dispensed with

For R2 & R3 : No appearance

For R4 : Mr.D.Boopal



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ORDER

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This Civil Revision Petition is filed challenging the fair and decreetal order in I.A.No.1 of 2023 in O.S.No.1397 of 2012, dated 30.06.2023 on the file of the II Additional District Munsif Court, Tiruchirappalli.

2.The petitioner is the plaintiff in O.S.No.1397 of 2012 on the file of the II Additional District Munsif Court, Tiruchirappalli. In that suit, the petitioner filed I.A.No.1 of 2023 under Order XXVI Rule 9 and Section 151 of CPC for appointment of an Advocate Commissioner to inspect the suit property and to measure and note down the physical features of the suit property with the help of a qualified surveyor. The said application was dismissed. Challenging the same, this Civil Revision Petition is filed.

3.The learned counsel for the petitioner made an endorsement in the Court record that notice to the first respondent shall be dispensed with. The said endorsement is recorded.

4.The learned counsel for the petitioner submits that the petitioner/plaintiff filed the suit for permanent injunction as against the respondents/defendants from putting up of further construction in the subject



property. The claim of the petitioner is that the respondents have constructed the compound Wall in the property of the petitioner. It could be identified only if the property is inspected and measured by an Advocate Commissioner with the help of a qualified surveyor. By appointing an Advocate Commissioner to measure the suit property, no prejudice will be caused to the respondents. However, the trial Court without considering all these aspects, has dismissed the application of the petitioner only on the basis of the cross examination of P.W.1.

5.The learned counsel for the fourth respondent submits that the plaintiff filed the suit for bare injunction. He has to establish his title by producing necessary evidence before the trial Court. Instead, he sought for appointment of an Advocate Commissioner to collect evidence through the Advocate Commissioner. Further, the trial in the suit has commenced. Hence, the trial Court has rightly dismissed the application filed by the petitioner and the same need not be interfered.

6.Heard the learned counsel appearing on either side and perused the materials placed on record.

7.In the present case, admittedly, the petitioner filed a suit for injunction



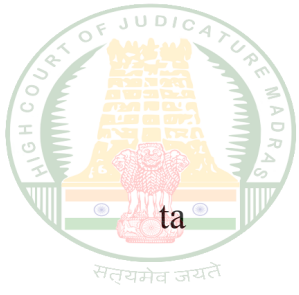
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as against the respondents. During the pendency of the suit, he filed an application in I.A.No.1 of 2023 for appointment of an Advocate Commissioner to note down the physical features of the property and measure the property with a qualified surveyor. Appointing an Advocate Commissioner and a getting report from the Advocate Commissioner would not cause any prejudice to the defendants. It is true that the report of the Advocate Commissioner is not a conclusive proof and it is only a piece of evidence. Even if the Advocate Commissioner's report goes against the petitioner or the respondents, they can very well file an objection before the trial Court at the time of trial.

8.Accordingly, the order passed in I.A.No.1 of 2023 is set aside and this Civil Revision Petition is allowed. The trial Court is directed to appoint an Advocate Commissioner for the purpose of measuring the suit property and to note down the physical features of the property with the help of a qualified surveyor. The Advocate Commissioner is directed to measure the property and file a report along with necessary photographs before the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

16.07.2025

Index : Yes/No
Internet : Yes / No



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To

- 1.The II Additional District Munsif Court,
Tiruchirappalli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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