



C.R.P.(MD)No.1818 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.1818 of 2025

and

C.M.P(MD) No.9990 of 2025

R.Santhi

... Petitioner

Vs.

1. G.Nagarajan

2. R.Alagar

3. Jamaal Moideen Pappa
Represented by her Power Agent
Kulanthaivelu.
S/o.Sethu Vijaya Thevar,
40, Arokiya Nagar,
1st Street, N.K.Road,
Thanjavur.

4. The Tahsildar,
Thanjavur,
Having Office at,
Thasildar Office,
Taluk Office,
Thanjavur.

5. State of Tamil Nadu,
Represented by its Collector,
Thanjavur,
Having Office at,
Court Road,
Thanjavur.

... Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 21.01.2025 passed in I.A.No. 385 of 2024 in O.S.No.352 of 2010 on the file of the Additional District Munsif Court, Thanjavur and allow the present Civil Revision Petition.

For Petitioner : Mr.R.J.Karthick

For R4 and R5 : Mr.B.Saravanan
Additional Government Pleader

ORDER

This Civil Revision Petition is filed seeking to set aside the fair and decretal order dated 21.01.2025 passed in I.A.No.385 of 2024 in O.S.No.352 of 2010 on the file of the Additional District Munsif Court, Thanjavur and allow the present Civil Revision Petition.

2.The petitioner filed a suit in O.S.No.352 of 2010 for declaration and permanent injunction and in that suit after trial, the petitioner filed an application for appointment of Advocate Commissioner under Order XXVI Rule 9 of CPC to note down the physical features and to file a report with the help of a qualified surveyor. The said application was dismissed. Challenging the same, this Civil Revision Petition is filed.



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3.The learned counsel for the petitioner submits that the petitioner purchased the property from the approved layout promoter. Further, it was found that there was overlapping in the layout, which can be identified only by appointing an Advocate Commissioner. Thereby, the petitioner filed an application under order XXVI Rule 9 of CPC and the same was rejected by the trial Court. By appointing an Advocate Commissioner, no serious prejudice will be caused to the respondent. Hence, the order passed by the trial Court is not sustainable.

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

5.Admittedly, the petitioner/plaintiff filed a suit for declaration and permanent injunction as against the respondents/defendants. The identification of the suit schedule property is not in question. The only issue raised by the petitioner is that the layout approved by the Layout Promoter is overlapped. If it is so, the alleged overlapping has to be established before the trial Court by marking the approved layout. For that purpose, appointment of Advocate Commissioner is not at all necessary. The said issue was rightly appreciated by



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the trial Court and the application filed by the petitioner seeking appointment of an Advocate Commissioner was rightly dismissed. Therefore, the order passed by the trial Court need not be interfered.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.07.2025

Index : Yes/No
Internet : Yes / No
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To

1. The Additional District Munsif Court,
Thanjavur.
2. The Tahsildar,
Thanjavur,
Having Office at,
Thasildar Office,
Taluk Office, Thanjavur.
3. The District Collector,
Thanjavur District.
4. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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