



CRP(MD). No.1552 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17/06/2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.1522 of 2021
and CMP(MD) No.8396 of 2021**

Justin

... Petitioner

Vs

Kolappan,
S/o.Ganapathy Pillai, P.N Illam, Kokode
Street, Eraniel, Neyyoor Post, Eraniel
Village, Kalkulam Tk, K.K District.

... Respondent

PRAYER :- Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order passed by the learned Principal District Munsif Padmanabhapuram in IA No.6 of 2021 in OS No.135 of 2014 dated 26.07.2021.

For Petitioner : Mr.K.P.Narayanakumar
For Respondent : Mrs.P.Kalaiyarasi Bharathi

ORDER

The Civil Revision Petition is filed against the fair and decreetal order passed by the learned Principal District Munsif Padmanabhapuram in IA No.6 of 2021 in OS No.135 of 2014 dated 26.07.2021.

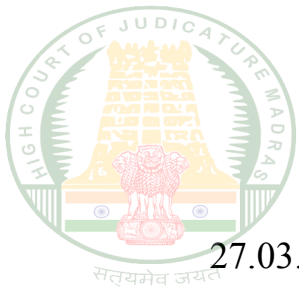


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2. The case of the petitioner is that he filed a suit for permanent injunction and his evidence was closed. Subsequently he filed an application in IA No.2,3 and 4 of 2019 for receiving additional documents, reopen the case and for recalling the Advocate Commissioner respectively and the said applications were allowed and the case was reopened. The petitioner has filed an application in IA No.6/2021 for examining the Surveyor as additional witness, who assisted the Advocate Commissioner and the said petition was dismissed. Challenging the same, the revision petition is filed.

3. The learned counsel for the petitioner would submit that admittedly the petitioner filed a suit for permanent injunction on the basis of the title. The same is marked as Ex.B3. During the pendency of the suit, the petitioner filed IA No.5/2020 for appointment of Advocate Commissioner. The Advocate Commissioner was appointed and he was also examined at the instance of the petitioner and as per Exs.B.1 and B3, the property was not measured and mentioned. In order to ascertain he for receiving additional documents, reopen the case and for recalling the Advocate Commissioner, even after closing the petitioner's evidence on



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27.03.2019. Therefore he filed IA Nos.2 to 4 of 2019 and the same were allowed. However, through the present IA No.6/2021, the petitioner wants to examine the Surveyor, who assisted the Advocate Commissioner and the same was rejected. The learned counsel for the petitioner would submit that unless the petitioner examines the Surveyor, prejudice would be caused to him. However, the said petition was not properly considered by the trial Court and the trial Court has dismissed the petition and hence, the petitioner prays for interference.

4. The learned counsel for the respondent would submit that earlier at the instance of the petitioner/plaintiff, the Commissioner has filed a report and on the basis of the said report, the petitioner has already cross-examined and his evidence was also closed on 27.03.2019 and in order to drag on the proceedings alone, the petitioner is filing applications after applications praying for one or the other reliefs. He would further submit that when the Advocate Commissioner has already been cross-examined and the examination of the Surveyor, who assisted the Advocate Commissioner, would be nothing but a futile exercise, the petitioner has filed the said application, which was rightly dismissed by the Court



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below. Therefore, he would submit that no interference is warranted to the order of the trial Court.

5. I have considered the rival submissions and perused the materials available on record.

6. It is well known that the Advocate commissioner and the revenue officials will not improve the case of the plaintiffs and the onus is on the part of the plaintiff to prove his case by producing documents and even the Advocate Commissioner report is a piece of evidence to decide the issue between the parties and it will not be the conclusive proof. Hence, the trial Court has rightly dismissed the petition. Hence, no interference is warranted to the order of the trial Court. However, without being influenced by any of the observations made hereinabove, the trial Court shall decide the suit in accordance with law. No costs. Consequently connected Miscellaneous Petition is closed.

17.06.2025

NCC : Yes/No
Index : Yes/No
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TO

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1.The Principal District Munsif Padmanabhapuram

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

RR

**ORDER
IN
CRP(MD) (NPD) No.1522 of 2021**

Date : 17/06/2025