



C.R.P.(MD)No.2029 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.2029 of 2025

and

C.M.P.(MD)No.11757 of 2025

1.Subramanian

2.Amutharani

...Petitioners

Vs.

S.Savarimuthu

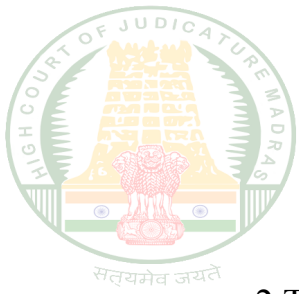
... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records and set aside the fair and decreetal order dated 29.01.2024 in I.A.No.1 of 2022 in O.S.No.128 of 2019 on the file of the District Munsif Court, Sivagangai.

For Petitioners : Mr.G.Sarathkumar

ORDER

This Civil Revision Petition is filed challenging the order dated 29.01.2024 made in I.A.No.1 of 2022 in O.S.No.128 of 2019 by the District Munsif Court, Sivagangai.

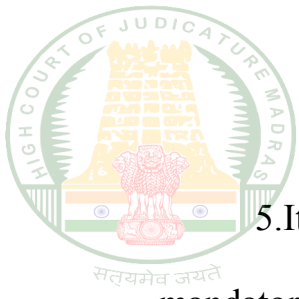


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2.The petitioners are the defendants in O.S.No.118 of 2019. The respondent/plaintiff filed the suit for mandatory injunction and permanent injunction. During the pendency of the suit, the respondent filed an application under Order XXVI Rule 9 of CPC for appointment of an Advocate Commissioner. The said petition was allowed. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioners submits that the respondent/plaintiff filed the suit solely on the basis of the assignment patta, which was challenged by the petitioners by way of writ petition in W.P. (MD)No.18479 of 2019 and the said writ petition is pending. Pending writ petition, the respondent/plaintiff filed the present interlocutory application for appointment of Advocate Commissioner and the same is not sustainable for the simple reason that the assignment patta is put to challenge in a writ petition, which is still pending and the Commissioner is not an expert to disclose the features and extent mentioned in the assignment patta. Hence, he prayed for appropriate order.

4.Considering the nature of the order proposed to be passed in this petition, notice to the respondent is dispensed with.



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5.It is an admitted that the respondent/plaintiff filed the suit for mandatory and permanent injunction. Pending suit, an application was filed seeking to appoint an Advocate Commissioner to note down the physical features of the property with the qualified surveyor. The trial Court has allowed the said application.

6.By appointing an Advocate Commissioner to measure the suit property, no prejudice will be caused to the respondents. 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 petitioners or the respondent, they can very well file an objection before the trial Court at the time of trial. Hence, this Court is not inclined to interfere with the order of the trial Court.

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

25.07.2025

Index : Yes/No
Internet : Yes / No
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To

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



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M.DHANDAPANI,J.

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