



C.R..P.(MD).No.2116 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(MD)No.2116 of 2025
and
CMP (MD) No.12316 of 2025

1. P.Murugesan
2. P.Sathiyamoorthy

... Petitioners

Vs.

1. S.P.C..Pandithurai
2. S.P.C.Pandimani

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 16.06.2025 passed in I.A.No.4/2024 in O.S.No.7/2016 on the file of the learned District Munsif Court Madurai Taluk by allowing the revision petition.

For Petitioner : Mr.S.Bala Karthick

ORDER

This Civil Revision Petition has been filed seeking to set aside the order dated 16.06.2025 passed in I.A.No.4 of 2024 in O.S.No.7 of 2016 on the file of the learned District Munsif Court, Madurai Taluk, by allowing



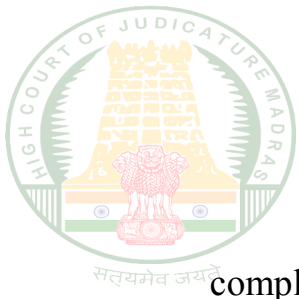
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the revision petition.
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2. Since no adverse orders are going to be passed against the respondents, notice to the respondents is dispensed with.

3. The revision petitioners are the plaintiffs in O.S.No.7 of 2016. During the pendency of the suit, the petitioners filed an application in I.A.No. 4 of 2024 under Order XXVI Rule 9 and section 151 of the Code of Civil procedure, seeking the appointment of an advocate commissioner with the assistance of a qualified surveyor to inspect both the suit property and the property belonging to the respondent and to submit a report along with a sketch. The said application was dismissed by the trial Court. Aggrieved by the same, the petitioners have filed the present civil revision petition.

4. The learned counsel for the petitioners submitted that the respondents/defendants have purchased only a portion of the property from the petitioners. However, they are illegally encroaching upon the remaining portion of the land by undertaking further construction, which was prevented by the petitioners/plaintiffs. In this regard, the petitioners lodged a police

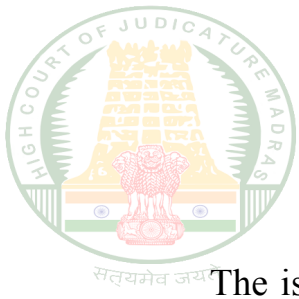


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complaint on 29.07.2024. Therefore, it is necessary to appoint an Advocate Commissioner to measure the property with the assistance of a qualified surveyor. However, the same was rejected by the trial Court. Accordingly, the learned counsel for the petitioners prays to allow the present revision petition.

5. Admittedly, the facts in the present case are not in dispute. The petitioners are the plaintiffs in the suit. The suit was filed for a declaration to declare the partition deed executed by the defendants 1 and 2 vide Document No.5387 of 2011 as null and void and also for a declaration that the gift deed executed by the first defendant in favour of the third defendant is null and void. Further, the plaintiffs sought a relief of permanent injunction restraining the respondents/defendants from interfering with the possession and enjoyment of the suit property to the extent of 17 ½ cents. During the pendency of this suit, the petitioners filed I.A.No.4 of 2024 seeking the appointment of an Advocate Commissioner. However, this Court unable to understand the necessity for such an appointment, as the petitioner have sought a permanent injunction against the respondents/defendants and have challenged the partition and gift deeds. In such circumstances, there is no question of appointing an Advocate Commissioner to measure the property.



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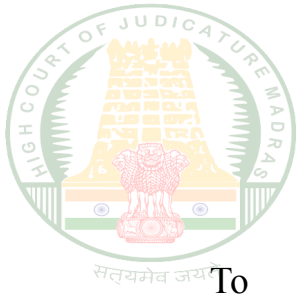
The issue was rightly appreciated by the trial Court and there is no need for interference by this Court.

6. Accordingly, this Civil Revision Petition stands dismissed.

There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
PKN



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



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M.DHANDAPANI,J.

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