



C.R.P.(PD)(MD)No.1877 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.1877 of 2022

Madasamy

... Petitioner

Vs.

1.Pattaiah

2.Madasamy

3.Ganesan

4.Mahalakshmi

... Respondents

PRAYER: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order made in I.A.No.2 of 2020 in O.S.No.102 of 2020 dated 05.07.2022 on the file of the Principal District Munsif Court, Sankarankovil.

For Petitioners : Mr.M.Thirunavukkarasu

For R1, R2 & R4 : Mr.V.Meenakshi Sundaram

ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order made in I.A.No.2 of 2020 in O.S.No.102 of 2020 dated 05.07.2022 on the file of the Principal District Munsif Court, Sankarankovil.



C.R.P.(PD)(MD)No.1877 of 2022

WEB COPY

2.The petitioner filed a suit in O.S.No.102 of 2020 for declaration and consequential injunction. In that suit, the petitioner filed an interlocutory application in I.A.No.2 of 2020 seeking appointment of an Advocate Commissioner to note down the physical features of the property with a qualified surveyor. The trial Court dismissed the said application. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner submitted that the trial Court dismissed the application filed by the petitioner for appointment of an Advocate Commissioner merely on the ground there is no need for appointment of an Advocate Commissioner. The petitioner sought appointment of an Advocate Commissioner only to measure and note down the physical features of the subject property. Further, the report of the Advocate Commissioner is not a conclusive proof and it is only a piece of evidence to decide the issue between the parties. Hence, he prayed for appropriate orders.



C.R.P.(PD)(MD)No.1877 of 2022

WEB COPY

4.Per contra, the learned counsel for the petitioner submits that in the declaratory suit, the petitioner has to prove his title. Instead of establishing his title over the subject property, seeking appointment of an Advocate Commissioner is not sustainable. Hence, he seeks to dismiss this Civil Revision Petition.

5.Heard the learned counsel for the petitioner and the respective respondents and perused the materials placed on record.

6.Admittedly, the petitioner filed the suit for declaration as against the respondent. The issue between the parties in the suit is whether the first and second respondents are the owners of the property and the subsequent alienation in the subject property is correct or not. With regard to such issue, the petitioner has to establish his title by adducing proper evidence. Instead, the petitioner cannot seek for appointment of an Advocate Commissioner. The said issue was rightly appreciated by the trial Court and the order passed by the trial Court dismissing the application filed for appointment of an Advocate Commissioner need no interference.



C.R.P.(PD)(MD)No.1877 of 2022

WEB COPY

7. Accordingly, this Civil Revision Petition is dismissed. No costs.

18.07.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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



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C.R.P.(PD)(MD)No.1877 of 2022

M.DHANDAPANI,J.

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C.R.P.(PD)(MD)No.1877 of 2022

18.07.2025