



CRP(MD). No.2293 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 21/08/2025

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**CRP (MD). No.2293 of 2025
and CMP(MD) No.13738 of 2025**

A.Barakath Nisha

... Petitioner

Vs

1. Muhammed Sulaiman
2. Palanisamy
3. Palanisamy

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the fair order and decretal order dated 25-06-2025 passed by the Additional District Munsif Court, Manapparai, in I.A.No.01 of 2021 in O.S.No.298 of 2017 and set aside the same.

For Petitioner : Mr.D.Malaichamy

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 25-06-2025 passed by the Additional District Munsif Court, Manapparai, in I.A.No.01 of 2021 in O.S.No.298 of 2017.



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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 petitioner is the defendant in OS No.298/2017. The said suit was instituted by the respondents/plaintiffs for permanent injunction restraining the petitioner/defendant not to interfere with the D schedule property. Pending suit, the respondents/plaintiffs filed Interlocutory application for appointment of Advocate Commissioner under Order XXVI Rule 9 of the Code of Civil Procedure to measure the D schedule property with the help of qualified Surveyor and submit a report along with a plan. The said petition came to be allowed, against the said order, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that absolutely the entire D schedule property belong to the petitioner's family and already on the petition filed by the first plaintiff in WP(MD) No. 327/2017, a direction was issued by this Court to the official respondents to consider the representation of the petitioner therein dated 30.08.2016 for removal of alleged encroachment within a period of two months. The



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learned counsel would submit that the said writ petition relates to S.No. 35/1, whereas the present suit relates to 39/1 and subsequently, the petitioner herein filed another writ petition in WP(MD) No.11269/2017 claiming the property as a private property and for claiming compensation, wherein, a direction was issued by this Court to approach the competent civil Court and the third respondent therein was also directed to survey the property in question. Since survey was not undertaken as directed by this Court, the petitioner herein filed a contempt petition and pursuant to the filing of the contempt petition, survey was conducted and it was found that there was no encroachment on the D schedule property. While so, the respondents/plaintiffs filed an application for appointment of Advocate Commissioner to measure the same property once again, in order to harass the petitioner/defendant.

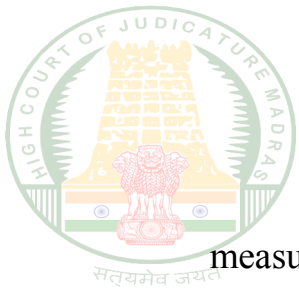
4.1. The learned counsel would further submit that the present interlocutory application was filed solely on the basis of the information obtained under the Right to Information Act, which is contrary to the interest of the petitioner and it has not been looked into by the trial Court. Hence, he prays for appropriate direction.



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

6. Admittedly the suit was filed by the respondents/plaintiffs for permanent injunction. It is not disputed that the first respondent/plaintiff filed writ petition claiming that the petitioner had encroached the property and this Court has also directed the official respondents to consider the representation of the respondents. While so, the petitioner herein had filed another writ petition for a direction to the respondents to survey the property/suit schedule property with the help of title deeds and for claiming compensation. The said writ petition was disposed of by directing the respondents therein to survey the land in S.No.39/1 and as such, survey was conducted and a report was also filed. The said survey was conducted pursuant to the contempt petition filed by the petitioner herein. It is the specific contention of the petitioner that when the suit schedule property was already measured with the help of Surveyor and a report has also been filed, for measuring the very same property, the respondents/plaintiffs filed an interlocutory application. However, it is to be noted that no prejudice would be caused to the petitioner by



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measuring the D schedule property once again as per the order of the trial Court. When there is no prejudice caused to the petitioner, the challenge made to the order passed by the trial Court is untenable. If the petitioner is aggrieved by the report of the Advocate Commissioner, she is entitled to file objections to the said report.

7. Accordingly, the Civil Revision Petition is dismissed with liberty to the petitioner to file objection, if any, to the report of the Advocate Commissioner. No costs. Consequently connected Miscellaneous Petition is closed.

21.08.2025

NCC : Yes/No

Index : Yes/No

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TO

1.The Additional District Munsif Court, Manapparai

2.VR Section

Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI,J

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**ORDER
IN
CRP(MD) (NPD) No.2293 of 2025**

Date : 21/08/2025