



C.R.P(MD)No.2332 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.02.2025**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2332 of 2022
and
C.M.P(MD)No.11238 of 2022

T.Sundaresan

... Petitioner/Sole Respondent/
Plaintiff

Vs.

1.S.Tamil Selvan

2.P.Janarthanan

3.P.Sankaralingam

4.P.Madusoothanaperumal

5.M.Kanna

6.V.Athimoolam

... Respondents/Petitioners 1-6/
Defendants 1-6

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the order and decreetal order, dated 29.03.2022 passed by the Principal District

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Munsif, Nagercoil in I.A.No.1 of 2021 in O.S.No.29 of 2018 and set aside the same.

For Petitioner : Mr.E.V.N.Siva

For R1 & R2 : Mr.N.S.Ramakrishna Dass

For R3 - R6 : No Appearance

ORDER

The plaintiff in O.S.No.29 of 2018 on the file of Principal District Munsif Court, Nagercoil is the revision petitioner.

2. A perusal of the records reveal that the revision petitioner herein as plaintiff has filed a suit for permanent injunction restraining the defendants from disturbing his peaceful possession and enjoyment over the plaint schedule property. The defendants have filed a written statement contending that the suit property belongs to Arulmighu Vembady Sudalaimadaswamy Temple and it is the family deity of both the plaintiff and defendants. According to the defendants, they have also filed an application for incorporating a prayer for counter claim seeking declaration to the above said effect.



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3. Pending suit, the defendants have filed I.A.No.1 of 2021 for appointment of an Advocate Commissioner to note down the physical features of the property. The trial Court has allowed the same. Challenging the same, the present revision petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, the suit is one for permanent injunction not to disturb possession and therefore, appointment of an Advocate Commissioner is unnecessary.

5. Per contra, the learned counsel appearing for the respondents/defendants had contended that the suit schedule property being a Temple property, the structures put up therein by the plaintiff should also be noted.

6. This Court is of the considered opinion that when the suit is for permanent injunction not to disturb possession, the entire burden is upon the plaintiff to establish his legal possession over the suit schedule



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property on the date of filing of the suit. In such circumstances, appointment of an Advocate Commissioner is not necessary. The trial Court has erroneously allowed the application. The order passed in I.A.No.1 of 2021 on 29.03.2022 is hereby set aside.

7. In view of the above deliberations, this Civil Revision Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

05.02.2025

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

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To

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

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R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)No.2332 of 2022

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