



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.06.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1982 of 2021

and

C.M.P.(MD)No.10628 of 2021

1.M.Saradha Ammal
2.Muraliraja

...Petitioners

Vs.

1.P.Ponnusamy
2.B.Bhagyalakshmi
3.A.Rajammal
4.B.Rajalakshmi

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the order dated 07.08.2021 made in I.A.No.01 of 2020 in O.S.No.309 of 2019, on the file of the District Munsif Court, Rajapalayam, by allowing this Civil Revision Petition.

For Petitioners : Mr.Y.Prakash

For Respondents : Mr.V.Thirumal



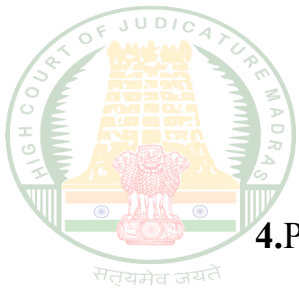
ORDER

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This petition has been filed seeking to quash the dated 07.08.2021 made in I.A.No.01 of 2020 in O.S.No.309 of 2019, on the file of the District Munsif Court, Rajapalayam, by allowing this Civil Revision Petition.

2.The petitioners are the defendants in O.S.No.309 of 2019, on the file of the learned District Munsif, Rajapalayam and the said suit was filed by the respondent for injunction restraining the petitioners not to interfere with the construction of their compound wall. During the pendency of the suit, the petitioners / defendants filed an application under Order 26 Rule 9, for appointment of Advocate Commissioner to note down the physical features and measure the property with qualified surveyor. However, the said application came to be dismissed. Challenging the same, this Civil Revision Petition has been filed.

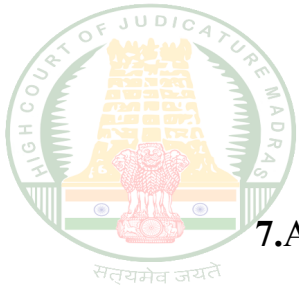
3.Learned Counsel for the petitioners would submit that mere appointment of Advocate Commissioner will not deprive the respondents rights and the Advocate Commissioner's report is only a piece of evidence to determine the issues and the same is not a conclusive proof. Accordingly, he prays for allowing the present Civil Revision Petition.



4.Per contra, learned Counsel for the respondents would submit that the the petitioners are the defendants in the suit and they have purposefully and intentionally filed an application for prolonging the trial and it is for the respondents / plaintiffs to establish the title for the purpose of getting injunction, in which there is no need for appointment of Advocate Commissioner and accordingly, he prays for dismissal of this Civil Revision Petition.

5.Heard the learned Counsel on either side.

6.Considering the facts and circumstances of the case, since appointment of Advocate Commissioner will not cause great prejudice to the respondents, the order passed by the Trial Court in I.A.No.01 of 2020 dated 07.08.2021 is set aside. The Trial Court is directed to appoint the Advocate Commissioner to note down the physical features and measure the property with the help of qualified surveyor and submit a report. Since, the suit is of the year 2019, the trial Court is directed to expedite trial and dispose of the suit within a period of six [6] months from the date of receipt of a copy of this order.



7. Accordingly, this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

20.06.2025

Internet: Yes/No

Index: Yes/No

MR



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To

- 1.The District Munsif Court,
Rajapalayam.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

MR

C.R.P.(MD)No.1982 of 2021

20.06.2025