



C.R.P.(MD)No. 2134 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2134 of 2022

and

C.M.P.(MD)No.9868 of 2022

- 1.Mariappan
- 2.Ganapathy
- 3.Karuppasamy
- 4.Murugesan
- 5.Koil

...Petitioners

Vs.

- 1.Rabert Chellaiah
- 2.Petchi
- 3.Sesaiya
- 4.Anna Poorani
- 5.Thilaha
- 6.Pazhani Maharajan
- 7.Navaneetha Krishnan

...Respondents



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 14.07.2022 passed in I.A.No.5 of 2021 in I.A.No.3 of 2020 in O.S.No.116 of 2019, on the file of Learned Additional District Munsif, Thoothukudi.

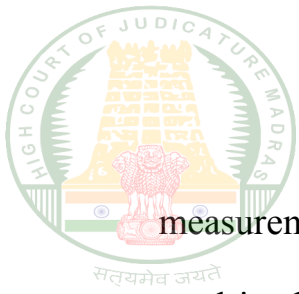
For Petitioners : Mr.M.P.Senthil

For Respondents : Mr.P.R.Prithviraj

ORDER

This petition has been filed seeking to set aside the fair and decreetal order dated 14.07.2022 passed in I.A.No.5 of 2021 in I.A.No.3 of 2020 in O.S.No.116 of 2019, on the file of Learned Additional District Munsif, Thoothukudi.

2.Learned Counsel for the petitioners would submit that the petitioners are the plaintiffs in O.S.No.116 of 2019. During the pendency of the suit, the petitioners filed an application in I.A.No.3 of 2020, for appointment of Advocate Commissioner. The same was allowed and the Advocate Commissioner filed his report. Aggrieved over the report of the Advocate Commissioner, the petitioners filed their objections that some of the



measurements did not find place in the report and further, the existence of that road is also not mentioned in the report. Thereby, the petitioners filed another application in I.A.No.5 of 2021 for re-issuance of warrant to the Advocate Commissioner, to measure the property and file additional report and the same was dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.

3.Learned Counsel for the petitioners would submit that admittedly, the petitioner filed a suit for declaration and permanent injunction as against the respondents and the respondents filed their written statement. In order to find out whether pathway is running in the suit schedule property and to know the correct measurement of the suit schedule property, it is necessary to appoint an Advocate Commissioner and the said request was negated by the trial Court. Accordingly, he prays for appropriate orders.

4.Per contra, learned Counsel for the respondents would submit that in order to find out the existence of the pathway, already an opportunity was granted by the trial Court, an Advocate Commissioner was appointed and the Commissioner filed his report. The same was also objected by the petitioners. Further, all those points can be canvassed before the trial Court by marking



revenue records and title deeds, for which there is no necessity for re-issuance of warrant to the Advocate Commissioner and the trial Court has rightly rejected the said petition and prays for dismissal of this Civil Revision Petition.

5. Heard the learned Counsel on either side.

6. Admittedly, the facts in the present case are not in dispute. The issue relates to pathway. The trial Court has earlier allowed the application filed by the petitioners for appointment of Advocate Commissioner, an Advocate Commissioner was appointed and the Commissioner filed his report. Aggrieved by the report filed by the Advocate Commissioner, the petitioners have filed the present petition seeking re-issuance of warrant to the Advocate Commissioner. It is also an admitted fact that the petitioners have filed their objections to the report of the Advocate Commissioner. As rightly contended by the learned Counsel for the respondents, the existence of pathway can very well be canvassed before the trial Court by marking the revenue records and title deeds. Hence, there is no necessity for re-issuance of warrant to the Advocate Commissioner. The said issue has been rightly adjudicated by the trial Court and the trial Court has rightly dismissed the petition filed by the petitioners. Hence, this Court finds no reason to interfere with the order of the trial Court.



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7. Accordingly, this Civil Revision Petition stands dismissed, with liberty to the petitioners to raise all the issues raised herein as well as to mark relevant documents before the trial Court. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

11.08.2025

Internet: Yes/No

Index: Yes/No

MR



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To

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



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M.DHANDAPANI, J.

MR

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