



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2533 of 2022

and

C.M.P.(MD).No.12437 of 2022

D.Thomas

...Petitioner

Vs.

1.Regunathan

2.Moni

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to call for the records relating to the fair and decreetal order passed in E.P.No.1 of 2017 in O.S.No.143 of 2007 dated 08.07.2022 on the file of the learned Principal District Munsif Court, Kuzhithurai and set aside the same by allowing this Civil Revision Petition.

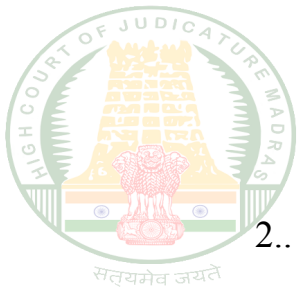
For Petitioner : Mr.B.Christopher

For R-1 : Mr.G.Aravinthan

For R-2 : Mr.S.C.Herold Singh

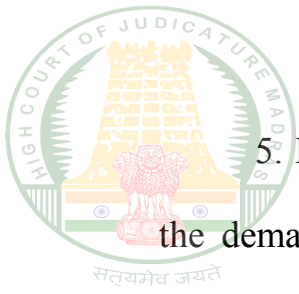
ORDER

This petition has been filed seeking to set aside the fair and decreetal order passed in E.P.No.1 of 2017 in O.S.No.143 of 2007 dated 08.07.2022 on the file of the Principal District Munsif Court, Kuzhithurai.



2.. The first respondent herein filed a suit in O.S.No.143 of 2007 before the learned Principal District Munsif, Kuzhithurai, seeking partition, separate possession, and fixation of boundaries in respect of the suit “A” and “B” schedule properties. On 21.04.2014, a decree for demarcation was granted in favour of the first respondent. On the other hand, the suit filed by the revision petitioner in O.S.No.456 of 2006, seeking permanent injunction, was dismissed and suit filed by the first respondent was allowed. Thereafter, the first respondent filed an execution petition in E.P.No.1 of 2017, in which an Advocate Commissioner was appointed to demarcate the boundaries as per the decree. The Advocate Commissioner filed a detailed report along with a sketch on 08.12.2017. After hearing both sides, the Executing Court, by order dated 08.07.2022, accepted the Commissioner’s report and sketch, and permitted the first respondent to lay a fence over the “D, E, N, H, I, M, D” portion of the suit property. Aggrieved thereby, the petitioner has filed this Civil Revision Petition.

4. The learned counsel for the petitioner submitted that as per the Commissioner’s plan, the pink portion belongs to the first respondent, whereas the yellow portion falls within the MDNF area, which has been enjoyed by the petitioner as an access to his house situated adjacent to the pink and yellow portions. According to him, the Commissioner’s report and plan are erroneous and liable to be interfered with.



5. Per contra, the learned counsel for the first respondent contended that the demarcation was made by the Commissioner strictly on the basis of the decree passed in O.S.No.143 of 2007. Unless the decree is modified in appeal, the Executing Court is bound to implement the same, and therefore the challenge to the Commissioner's report in execution proceedings is not sustainable. He further pointed out that the petitioner's suit in O.S.No.456 of 2006, seeking permanent and mandatory injunction against the first respondent, was dismissed, and the dismissal has attained finality. Hence, the present revision petition is not maintainable.

6. On a perusal of the records, it is clear that the decree passed in O.S.No. 143 of 2007 has become final, and the Advocate Commissioner has demarcated the boundaries only in accordance with the said decree. The Executing Court has rightly accepted the report and permitted the first respondent to lay the fence. No illegality or material irregularity is made out warranting interference by this Court in revision.

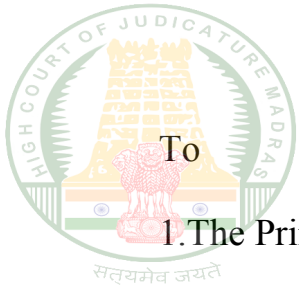
7. In view of the foregoing discussion, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.08.2025

Internet:Yes/No

Index:Yes/No

TSG



To

1.The Principal District Munsif Court, Kuzhithurai.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

TSG

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