



C.R.P.(MD).No.2041 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2041 of 2019
and
C.M.P.(MD)No.10491 of 2019

VR.Ramasamy

... Petitioner

Vs.

1.Nainamohammed (died)

2.Ayyakannu @ Kadar Mohideen

3.Kamarunisha

4.Pranmalai

5.Sharmila

6.Abdul Razik

7.Abdul Sadiq

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 30.09.2019 in I.A.No.224 of 2019 in O.S.No.16 of 2018 on the file of the Principal District Munsif cum Judicial Magistrate, Karaikudi.

For Petitioner : Mr.R.Balakrishnan

For RR2, 3, 5 & 7 : No appearance



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ORDER

This Civil Revision Petition is filed challenging the fair and decreetal order dated 30.09.2019 in I.A.No.224 of 2019 passed by the Principal District Munsif cum Judicial Magistrate, Karaikudi.

2.The petitioner is the plaintiff in O.S.No.16 of 2018. He filed an application under Order 26 Rule 9 and Section 151 of CPC for appointment of Advocate Commissioner. The said application was dismissed on 30.09.2019. Challenging the same, the present civil revision petition is filed.

3.The learned counsel for the revision petitioner submits that the respondents herein were enjoying the petitioner's 'B' schedule property, which forms part of the 'A' schedule property as pathway. Earlier, the petitioner has given consent to enjoy the said property for the purpose of ventilation. However, at later point of time the petitioner refused the respondent for using the said property, since the respondents denied the title of the petitioner, thereby, the petitioner issued legal notice to the respondents. Thereafter, he filed a suit for declaration and permanent injunction. In that suit, the petitioner filed an application seeking appointment of Advocate



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Commissioner to measure 'A' and 'B' Schedule properties separately and to mention boundaries. However, the said application was rejected. Challenging the same, the present petition is filed.

4.This Court perused the entire records. Though notice has been served on some of respondents, none appeared on their behalf. However, considering the pendency of this petition, this Court is inclined to dispose of this petition based on the available records.

5.Perusal of the record shows that the plaintiff filed a petition under Order 26 Rule 9 of CPC for appointment of Advocate Commissioner and the same was rejected on the ground that the petitioner wanted to ascertain whether the 'B' schedule property forms part of 'A' Schedule property and the same is not permissible. Apart from that the petitioner has filed the application seeking to conduct survey of the properties and to note down the four boundaries, survey number, classification, patta number and the patta holder of the properties in question. The prayer sought by the petitioner is not at all sustainable. Hence, the order passed by the trial Court rejecting the relief sought for by the petitioner needs no interference from this Court.



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Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

09.06.2025

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

- 1.The Principal District Munsif cum Judicial Magistrate, Karaikudi.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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