



C.R..P.(MD).No.2193 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2193 of 2017
and
C.M.P.(MD)No.10773 of 2017

M.Natarajan (died)

2.N.Siva Kumar

3.N.Arumugam

...Petitioners

[Petitioners 2 & 3 are brought on record vide order dated 26.11.2021]

Vs.

A.Rajendran

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the fair and decreetal order dated 18.11.2016 passed in I.A.No.527 of 2016 in O.S.No.290 of 2009 on the file of the I Additional District Munsif, Tiruchirappalli and set aside the same.

For Petitioner : Mr.R.Sundar Srinivasan



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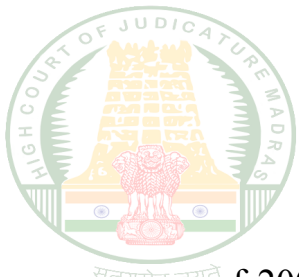
ORDER

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This Civil Revision Petition is filed challenging the order passed by the I Additional District Munsif, Tiruchirappalli in I.A.No.527 of 2016 dated 18.11.2016.

2.The petitioner filed a suit in O.S.No.290 of 2009 for permanent injunction restraining the defendant/respondent from interfering with the peaceful possession and enjoyment of the suit property. In the said suit, he filed an interlocutory application in I.A.No.527 of 2016 seeking to re-issue the warrant to the same Commissioner or to any other Commissioner to inspect the suit property with the help of the qualified Surveyor and with the help of the certified copy of the current survey records and file a detailed report. The said interlocutory application was dismissed. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner submits that the original plaintiff filed a suit for permanent injunction as against the respondent herein. Earlier, the original plaintiff filed an interlocutory application in I.A.No.420



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of 2009 for appointment of Advocate Commissioner to inspect and measure the suit schedule property with the qualified surveyor. The said interlocutory application was allowed and the commissioner has also filed a report and plan before the trial Court. Only thereafter, the petitioners came to know that there was a partition suit in between the respondent and others and in that suit in the final decree proceedings, the Commissioner filed a plan in the year 1955. Now, the petitioners have got the said plan. Hence, the petitioner filed another interlocutory application in I.A.No.527 of 2016 to measure the suit property on the basis of the plan filed by the Advocate Commissioner in the partition suit. The trial Court without considering the facts and circumstances of the case, has dismissed the application. The said order is not sustainable for the simple reason that the appointment of an Advocate Commissioner is only to assist the Court to arrive at a fair conclusion and it is not a conclusive proof. Hence, he prayed for appropriate orders.

4. Though the Civil Revision Petition was filed in the year 2017, the petitioner has not taken any steps to effect service on the respondent. However, considering the long pendency of this petition, this Court is inclined to dispose of this petition based on the available records.



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5.The fact in the present case is not disputed. Admittedly, the original plaintiff claims that he is the owner of the property in Survey No. 201/1D1B4A2 and he claims that his possession of the said property was interfered by the respondent. Therefore, the original plaintiff filed a suit for permanent injunction to restrain the respondent from interfering with the peaceful possession of the suit property. It is equally undisputed that initially the original plaintiff filed an application in I.A.No.420 of 2009 seeking to appoint an Advocate Commissioner to measure the property. Pursuant to the same, the commissioner was appointed and he has also filed his report after inspecting the property. The original plaintiff has not filed any objection to the said report.

6.Thereafter, the petitioner filed the present interlocutory application for re-issuing the warrant once again to measure the property based on the plan submitted by the Advocate Commissioner in the partition suit filed between the respondent and others.



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7.As rightly stated by the trial court, the Commissioner's plan was filed in the year 1985 in the partition suit filed in between the respondent and other legal heirs. Further, the Commissioner's plan is only to assist the Court and it is not a survey record. The petitioner's claim to measure the suit property on the basis of the said plan is impracticable one. The trial Court after considering all these aspects, has rightly dismissed the application filed by the petitioner seeking re-issuance of the warrant and the said order need not be interfered with.

8.Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

04.06.2025

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

1.The I Additional District Munsif, Tiruchirappalli.

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

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M.DHANDAPANI,J.

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