



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.04.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.2869 of 2024

and

C.M.P(MD)No.16410 of 2024

1.M.Petchi Muthu
2.M.Kongiyammal
3.Nagarajan
4.M.Sebasthiyammal

...Petitioners/Respondents 3 to 5 & 8/
Respondents 3 to 5 & 8/
Judgment Debtors

Vs.

1.G.Thangaiyan
2.G.Nallathambi
3.Balu @ Siva Balu
4.A.Prakash
5.U.Sakthivel
6.R.Panjavarnam
7.M.Irulappan
8.P.Senthil

...Respondents 1 & 2/Respondents 1 & 2/
Respondents 1 & 2/Decree Holders

(Respondents 3 to 8 not necessary
relief given up)

...Respondents 3 to 8/Respondents
2,6,7,9,10/Respondents 2,6,7,9,10/
claimed as Tenants of 5th Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records relating to the impugned fair and decreetal order made in E.A.No.51/2024 in E.P.No.8/2017 in O.S.No.465 of 1997 dated 03-10-2024 on the file of the Additional District Munsif Court, Thanjavur, set aside the same and allow this civil revision petition.



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For Petitioners : Mr.V.S.Kumara Guru

For Respondents : Mr.D.Anbarasu for R1 & R2

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ORDER

The judgment debtors in O.S.No.465 of 1997, on the file of the Additional District Munsif Court, Thanjavur, have filed the present revision petition challenging the appointment of Advocate Commissioner in the execution proceedings.

2.From the records, it could be seen that the respondents 1 and 2 herein have filed the suit for the relief of permanent injunction for the first item of the property and for declaration of title and mandatory injunction for the second item of the property. The suit was dismissed by the trial Court. The plaintiffs have filed first appeal and the first appeal was partly allowed with regard to the first item of the property and was dismissed with regard to the second item of the property.

3.Alleging that the permanent injunction decree was violated by the defendants, the decree holders have filed E.P.No.8 of 2017, under Order 21 Rule 32 of C.P.C. Pending E.P., the plaintiffs have filed E.A.No.51 of 2024, for



appointment of Advocate Commissioner to point out the violation made by the defendants. This application was allowed. Challenging the same, the defendants have filed the present revision petition.

4. According to the learned Counsel appearing for the revision petitioners, Advocate Commissioner cannot be appointed during the execution proceedings for the purpose of collecting evidence for the decree holders in a suit for permanent injunction.

5. Per contra, the learned Counsel appearing for the respondents/decreed holders had pointed out that the Advocate Commissioner has already submitted his report on 28.12.2024, and therefore, nothing survives in the revision petition.

6. I have considered the submissions made on either side and perused the materials available on record.

7. The main contention of the revision petitioners is that without properly furnishing the description of the property, the present execution proceedings have been filed. This Court is of the considered opinion that this is a defence to



be raised in the execution proceedings. So far, orders have not been passed in

E.P.No.8 of 2017, and the same is pending.

8.Considering the fact that the Advocate Commissioner has already submitted his report, the revision petitioners are at liberty to submit their objection, if any, to the report and the executing Court is directed to dispose of E.P.No.8 of 2017, as expeditiously as possible.

9.With the above said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

08.04.2025

Internet:Yes/No
Index:Yes/No
RJR



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To

The learned Additional District Munsif,
Thanjavur.

Copy to:-

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



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R.VIJAYAKUMAR, J.

RJR

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