



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2587 of 2022

and

C.M.P.(MD).No.12698 of 2022

Jeyalakshmi

...Petitioner

Vs.

1.S.Vadivel

2.S.Gurubackiyam

3.P.Madasamy

4.S.Suresh

5.S.Vijayakumar

6.S.Kalimuthu

7.S.Guru Packiyam

8.T.Selvaraj

...Respondents

PRAYER: Civil Revision Petition is filed under under Article 227 of the Constitution of India to set aside the impugned fair and decreetal orders in I.A.No.1 of 2022 in O.S.No.137 of 2021 dated 16.06.2022 on the file of the District Munsif Court, Rajapalayam.

For Petitioner

: Mr.P.M.Vishnuvarthanan



ORDER

This petition has been filed to set aside the impugned fair and decreetal order in I.A.No.1 of 2022 in O.S.No.137 of 2021 dated 16.06.2022 on the file of the District Munsif Court, Rajapalayam.

2. The petitioner is the plaintiff in O.S.No.137 of 2021. She filed the said suit seeking declaration that she is entitled to an easementary right to access the second schedule property through the third schedule property. Pending the suit, the petitioner filed an interlocutory application in I.A.No.1 of 2022 under Order XXVI Rule 9 of the Code of Civil Procedure, praying for the appointment of an Advocate Commissioner to inspect the third schedule property. The trial Court, after considering the submissions, dismissed the said application on 16.06.2022. Aggrieved by the same, the present Civil Revision Petition has been preferred.

3. Learned counsel for the petitioner submitted that the interlocutory application was rejected only on the ground that the right claimed can be established through documents and evidence during trial. He contended that no prejudice would be caused to the respondents if an Advocate Commissioner is appointed at this stage.

4. This Court has carefully considered the submissions of the learned counsel for the petitioner and perused the materials available on record. The



issue raised by the petitioner relates to the existence of an easementary right over the third schedule property. The trial Court rightly held that such a right is a matter for adjudication on the basis of oral and documentary evidence. The appointment of an Advocate Commissioner at this stage would not serve the purpose of resolving the core issue in dispute and may, in fact, amount to collection of evidence, which is impermissible in law. Therefore, the order of the trial Court does not suffer from any illegality or irregularity warranting interference by this Court under Article 227 of the Constitution of India.

5. In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

28.08.2025

Internet: Yes/No

Index: Yes/No

TSG

To

1. The District Munsif Court, Rajapalayam.

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



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M.DHANDAPANI, J.

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