



C.R.P(MD)Nos.3080 & 3081 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.12.2024
DELIVERED ON : 23.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)Nos.3080 & 3081 of 2024
and
C.M.P(MD)Nos.17554 of 2024

C.R.P(MD)No.3080 of 2024:

Vasanth

... Petitioner

Vs.

1.Veerappan

2.Kannan

3.Raja

4.Amaravathi

... Respondents

*(No relief sought against the respondents 2 to 4.
Hence, notice to the respondents 2 to 4 may be
dispensed with)*

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 25.09.2024 in I.A.No.7 of 2023 in I.A.No.2 of 2019 in O.S.No.134 of 2019



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on the file of the District Munsif Court, Sivagangai and allow this civil revision with costs.

For Petitioner : M/s.K.Shwathini

For Respondents : Mr.R.Suriyanarayanan

C.R.P(MD)No.3081 of 2024:

Vasantha

... Petitioner

Vs.

1.Veerappan

2.Raja

3.Amaravathi

... Respondents

*(No relief sought against the respondents 2 and 3.
Hence, notice to the respondents 2 and 3 may be
dispensed with)*

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 25.09.2024 in I.A.No.8 of 2024 in I.A.No.2 of 2019 in O.S.No.134 of 2019 on the file of the District Munsif Court, Sivagangai and allow this civil revision with costs.

For Petitioner : M/s.K.Shwathini



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For Respondents : Mr.R.Suriyanarayanan

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COMMON ORDER

These Civil Revision Petitions are preferred against the fair and decreetal order, dated 25.09.2024 passed in I.A.No.7 of 2023 and I.A.No.8 of 2024 in I.A.No.2 of 2019 in O.S.No.134 of 2019 by the learned District Munsif Court, Sivagangai.

2. The revision petitioner is the first defendant in the above suit. The suit in O.S.No.134 of 2019 was filed by the first respondent / plaintiff for declaration, recovery of possession and mandatory injunction in respect of the suit property. Pending suit, the first respondent / plaintiff filed an application for appointment of Advocate Commissioner to survey the suit property and as such, the Advocate Commissioner was appointed.

3. According to the revision petitioner, the said Advocate Commissioner failed to survey and measure the property based on the survey stones located on the land. The Advocate Commissioner also failed to mention in his report, the linear measurements of the suit property and



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also failed to mention the location of the survey stones. The Advocate Commissioner also failed to note down the length, breadth and extent of Survey Nos.234/5 and 234/7 or the linear measurements of the houses of the plaintiff and the defendant.

4. The contention of the learned Counsel for the petitioner is that only if the linear measurement of the houses as per the title deed and revenue records are mentioned, it would fail to throw light upon the dispute in question. Therefore, the report filed by the Commissioner is bereft of details and therefore, it has become necessary to appoint a fresh Advocate Commissioner for the said purpose. Hence, the revision petitioner filed an application in I.A.No.7 of 2023 to re-issue the warrant to another Advocate Commissioner and I.A.No.8 of 2024 to scrap the earlier Commissioner report. However, the Trial Court erroneously dismissed the said applications. Against which, the present revision is preferred.

5. The learned Counsel appearing for the revision petitioner would submit that the report of the Commissioner is vitiated of many factors and therefore, it is imperative to appoint a fresh Commissioner and to scrap the



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earlier Commissioner report. Otherwise, the revision petitioner would put to great hardship. The learned Counsel for the revision petitioner would further submit that when the report of the earlier Commissioner is questioned, then the same has to be scrapped before re-issuing warrant to a fresh Commissioner.

6. To support her contention of the learned Counsel appearing for the petitioner, has relied upon the following judgments:

i) Selvaraj Vs. Vadivazhagi and Others reported in 2019 SCC Online Mad 12606 and

ii) Ravi and Others Vs. M.Muthu and Others.

7. On the other hand, the learned Counsel appearing for the respondents would submit that the respondents / plaintiffs filed an application in I.A.No.2 of 2019 for appointment of Advocate Commissioner and the same was allowed, in which the Advocate Commissioner visited the suit property and with a help of the surveyor, measured the same and had filed his report. At the time of surveying the property, the revision petitioner did not raise any objections. However, the petitioner has filed her objections



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to the said Commissioner report. The Trial Court has categorically observed that the Advocate Commissioner has measured the property with the aid of the Taluk surveyor and at that time of inspection, the petitioner has not raised any objections. Therefore, no dissatisfaction is recorded by the Trial Court to decline the report of the Advocate Commissioner. Moreover, the revision petitioner has not raised any objections at the time of surveying the property by the surveyor and Advocate Commissioner in the presence of the Village Administrative Officer.

8. Heard the learned Counsel for the petitioner and the learned Counsel for the respondents and perused the materials available on record.

9. The facts in the referred cases are different. In the above cases, the Advocate Commissioner failed to consider the objections made by the petitioner at the time of inspection and therefore, warrant was reissued to the Advocate Commissioner. Moreover, in the above cases, the property was not properly identified and measured. Therefore, the propositions made in the above judgments are not applicable to the present facts of the case.



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10. In the present case, in pursuant to the order passed in I.A.No.2 of 2019, Advocate Commissioner was appointed. The report of the Advocate Commissioner reveals that he had visited the suit property along with the Firka Surveyor and Village Administrative Officer and measured the same and the Surveyor measured the property in accordance with the title deeds of the parties. Therefore, the objections made by the revision petitioner that the entire extent of the property in the suit survey number has to be measured cannot be accepted. Therefore, appointment of fresh Commissioner to measure the suit property once again is unwarranted. The surveyor need not have to survey the property once again having done so, pursuant to the order of the very same Court in I.A.No.2 of 2019. There cannot be two reports of the Taluk Surveyor, that will confuse the Court and the suit proceedings. Therefore, there is no justification for scrapping the report of the Advocate Commissioner. Moreover, the first Commission petition was filed in the year 2019. The present applications for appointing a fresh Commissioner and scrapping the report of the earlier Commissioner was filed in the year 2023. The learned District Munsif Court, Sivagangai has rightly dismissed the above petitions and the impugned order does not suffer from jurisdictional error warranting interference.



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11. These Civil Revision Petitions have no merits and is bound to fail.

Accordingly, these Civil Revision Petitions stand dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

23.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The District Munsif Court,
Sivagangai.



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K.GOVINDARAJAN THILAKAVADI, J.

BTR

Order made in
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23.01.2025