



CRP(MD). No.3139 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 29.10.2025

CORAM

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CRP(MD). No.3139 of 2025

and

CMP(MD)No.17495 of 2025

M.Panneer Selvam

... Petitioner

Vs.

1.M.Victor Durai Raj

2.Kurusady St., Antony's Church
Rep., by its Parish Priest,
Kurusady, Nagercoil,
Konam Post, Neendakarai 'A' Village,
Agastheeswaram Taluk,
Kanyakumari District.

... Respondents

PRAYER :- Civil Revision Petition filed under Article 227 of The Constitution of India, seeking to set aside the order passed in I.A.No.3 of 2024 in O.S.No.156 of 2024, dated 19.09.2025 on the file of the I Additional District Munsif, Kanyakumari District.

For Petitioner : Mr.G.Anto Prince



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ORDER

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This Civil Revision Petition had been filed seeking to set aside the order passed in I.A.No.3 of 2024 in O.S.No.156 of 2024, dated 19.09.2025 on the file of the I Additional District Munsif, Kanyakumari District.

2. The learned counsel for the petitioner would submit that the petitioner has filed a suit for a permanent injunction, prohibitory injunction and a mandatory injunction as against the first respondent who is his brother restraining him from causing damage to the Plaint 'B' schedule property and interfering with his peaceful possession and ingress and egress to the common pathway which is the 'C' schedule property.

3. It is his claim that the plaint 'A' schedule property originally was allotted to the father for residential purposes, where he had constructed a house consisting of ground floor and the first floor. After the demise of his father, his mother under two unregistered Settlement Deeds allotted



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ground floor to the first defendant and first floor to the plaintiff reserving the common right of pathway in the western side which is the 'C' schedule property for free ingress and egress. As the first respondent obstructed the right of the petitioner to use the ingress and egress in the common pathway and attempted to erect a structure on the open terrace, the petitioner has filed the instant suit.

4. He had taken out an application for appointment of Advocate Commissioner to note down the physical features of the plaint schedule property particularly the C schedule common pathway and also to note down the damages. The said application had been dismissed by the Court below without appreciating the claim made by the petitioner in the ground that such appointment of Advocate Commissioner cannot be made for collection of evidence. He would submit that the suit had been filed by the petitioner not only for an injunction but also for a prohibitory injunction and also for a mandatory injunction to direct the first respondent to reconstruct the demolished portion in the plaintiff's residential house in the B schedule property. Hence, he seeks indulgence of this Court.



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5. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

6. It is the claim for the petitioner that the plain B schedule property which forms part of the A schedule property had been settled in his favour and to access the same he approaches the same through C schedule property. To substantiate the same, the petitioner would have to lead in appropriate evidence including the existence of the C schedule property by oral or documentary evidence. An Advocate Commissioner cannot be appointed to substantiate the existence of C schedule property.

7. For the aforesaid reasons this Court do not find any infirmity in the order impugned herein and accordingly, the Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

29.10.2025

Index : Yes/No
Internet : Yes/No
NCC : Yes/ No
GBA



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1. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
2. The I Additional District Munsif, Kanyakumari District.



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K.KUMARESH BABU,J.

Gba

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