



WEB COPY

CRP No. 974 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-06-2026

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

**CRP No. 974 of 2025
and C.M.P.No.5585 of 2025**

Ramasamy.M

..Petitioner(s)

Vs

1. Ramesh

2. Premalatha

..Respondent(s)

PRAYER – This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside to set aside the order dated 04-01-2025 passed in I.A.No.2 of 2023 in O.S.No.307 of 2014 on the file of the Principle District Munsif, Ariyalur.

For Petitioner:

Mr.A.Kapaleeswaran

For Respondents:

Mr.S.Kamadevan

ORDER

This Civil Revision Petition has been filed challenging the impugned order dated 04.01.2025 passed by the Principal District Munsif Court at Ariyalur in I.A.No.2 of 2023 in O.S.No.307 of 2014.

2.Under the aforesaid order, the application filed by the petitioner who is the plaintiff in O.S.No.307 of 2014 seeking for appointment of an Advocate



Commissioner has been dismissed on the ground that the petitioner has filed I.A.No.2 of 2023 belatedly. Admittedly, the petitioner has filed I.A.No.2 of 2023 only when the suit in O.S.No.307 of 2014 was in the part heard stage and it was posted for arguments in the main suit.

3.The learned counsel for the petitioner would submit that an application for appointment of an Advocate Commissioner can be filed at any stage in the suit. In support of the said contentions, he relied upon the following authorities:

(a) Order dated 18.07.2022 passed by a learned Single Judge of this Court in S.A.No.1684 of 2002 in the case of “Munusamy Pillai (died) and another Vs. Seetharaman and others”.

(b) Order of a learned Single Judge of Karnataka High Court dated 24.01.2023, passed in W.P.No.201274 of 2022 in the case of “Sri Shadaksharappa vs. Kumari Vijayalaxmi and others”.

4.The proposition that an application seeking for an appointment of an Advocate Commissioner can be filed at any stage of the proceedings is not disputed, as it is a well settled proposition. The Civil Procedure Code also does not restrict a party from filing an application seeking for appointment of an Advocate Commissioner at any stage of the suit. But, at the same time, in an



application, even though a specific time frame has not been fixed under the provision for appointment of the Advocate Commissioner in C.P.C., the said application will have to be filed within a reasonable period and not to be filed to delay the disposal of the suit.

5. In the instant case, the respondent/defendant had raised a defence in his written statement that the relief sought for by the plaintiff cannot be granted and the dispute can be resolved only if an Advocate Commissioner is appointed by the Court. The said written statement has been filed as early as on 09.01.2016 itself. However, the petitioner did not file an application seeking for appointment of the Advocate Commissioner immediately after the respondent filed his written statement or within a reasonable time thereafter. The issues were framed by the Trial Court subsequent to the filing of the written statement by the respondent and the Trial also commenced. The witnesses were also examined during trial by the Trial Court. Only when the suit was posted for arguments, I.A.No.2 of 2023 was filed by the petitioner in O.S.No.307 of 2014 before the Trial Court on 02.08.2023. The initial burden of proof to prove the suit claim is vested only with the plaintiff, namely the petitioner herein. Since the defendant has taken a categorical defence in the written statement that they are not liable under a suit claim and they have also taken a specific plea that the dispute can be resolved only by appointment of the Advocate Commissioner, the petitioner/plaintiff ought to have been vigilant and filed an application



seeking appointment of an Advocate Commissioner at the earliest stage of the proceedings. Instead, he has chosen to file the appointment of Advocate Commissioner application only during arguments stage in the suit. If such kind of applications are entertained during the arguments stage, it will only delay the disposal of the suit. The Trial Court rightly dismissed I.A.No.2 of 2023 filed by the petitioner since the same has been filed belatedly only during the arguments stage in the suit. In the affidavit filed in support of I.A.No.2 of 2023, the petitioner has also not explained the delay in filing the application seeking for appointment of the Advocate Commissioner, as in the written statement itself, as early as on 09.01.2016, the respondent has taken a defence that the dispute can be resolved only through the appointment of an Advocate Commissioner.

6.The decisions relied upon by the learned counsel for the petitioner has no applicability for the instant case, since each and every application filed before the Trial Court has to be filed within a reasonable period. Since no sufficient cause has been shown by the petitioner for the inordinate delay in filing the application seeking for an Advocate Commissioner, this Court is of the considered view that the Trial Court has rightly dismissed the application. Therefore, this Court is not interfering with the impugned order dated 04.01.2025 passed in I.A.No.2 of 2023 in O.S.No.307 of 2014.



7. Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

gsa

To

The Principal District Munsif Judge,
Ariyalur.



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ABDUL QUDDHOSE, J.

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