



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 1614 of 2025

AND

CMP NO. 9328 OF 2025

Somasundaram
No.41, Vinayakar Kovil St, Sulliankuppam,
Puducherry.

..Petitioner(s)

Vs

Kothai @ Poongothai
No.25, Subramaniam Temple St, Pondicherry 13.

..Respondent(s)

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition, thereby setting aside the order dated 17.12.2024 passed in IA No.520 of 2024 in OS 140 of 2021 on the file of the Hon'ble Additional Sub Court, Tindivanam.

For Petitioner(s): Mr.G.Mohammed Aseef

For Respondent(s): Mr.T.Saikrishnan

ORDER

Challenging the impugned order passed in IA No.520 of 2024 in OS No.140 of 2021 dated 17.12.2024 on the file of the Additional Subordinate Court, Tindivanam, the defendant has preferred the present revision petition.



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2. Before the trial court, the revision petitioner claims that he is a tenant under the respondent for superstructure and he developed the property in order to run a restaurant by spending a huge amount. To prove the same, he want to appoint an Advocate Commissioner but the court below failed to consider such application. Aggrieved over the same, the defendant has preferred the present revision petition.

3. The learned counsel for the respondent / plaintiff submits that he has no objection to appoint Advocate Commissioner, since the plaintiff side evidence was already closed in the year 2023 and only to drag on the proceedings, such an application was filed by the revision petitioner / defendant.

4. Considered both side submissions. The plaintiff, being senior citizen, has filed the suit for recovery of possession of vacant site admeasuring 11,600 sq.ft., as stated in the plaint schedule and he also seeking direction to vacate the premises and handover the vacant possession against the defendant. Furthermore, there is a rent arrears of Rs.60,000/- on the date of filing of the suit. Now the defendant also contested the case against the tenancy but he claim right over the superstructure. Therefore, he filed the application to appoint an Advocate Commissioner before the trial court. The plaintiff evidence was



completed in the year 2023 and the case is posted for defendant side evidence and at the time, this application was filed. Considering the conduct of the defendant/revision petitioner, the trial judge dismissed the application.

5. The fact reveals that as pointed out by the counsel for the plaintiff / respondent he filed the suit only for recovery of possession of vacant land and not for superstructure. Therefore, the appointment of Advocate Commissioner is unwarranted. But still the defendant claims that he made some improvement in the property. To avoid further multiplicity of proceedings, this Court is inclined to set aside the findings of the trial court by allowing this application.

6. Accordingly, this Civil Revision Petition is allowed and the order dated 17.12.2024 passed in I.A.No.520 of 2024 in O.S.No.140/2021 on the file of the Additional Sub Court, Tindivanam is set aside. The trial judge is directed to appoint an Advocate Commissioner within a period of one week from the date of receipt of a copy of this order. The Advocate Commissioner is also directed to visit the property by giving notice to both the parties only in respect of noting down the physical features and submit the report within a period of two weeks from his appointment and thereafter, the trial court is directed to proceed with the matter. Since the evidence was already closed in the year 2023 and that the plaintiff also being a senior citizen and fact also reveals that there is an arrears of rent, the trial judge is directed to dispose of the case within a period of eight



weeks from the date of receipt of a copy of this order. No costs. Consequently,
connected Civil Miscellaneous Petition is closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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T.V.THAMILSELVI J.

MTL

To

1. The Additional Sub Court, Tindivanam.

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