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C.R.P.No.311 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.311 of 2024
and C.M.P.No.1438 of 2024

Balasubramanian
S/o. Kaliappa Gounder,
Rep. by his Power Agent Prabu,
S/o. K. Balasubramanian,
Near TTP Mill,
Anupparpalayam,
Tiruppur – 641 657.

... Petitioner

VS.

1.Poongodi

2.Angayarkanni

3.Ranjith Kumar

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the above Civil Revision Petition by setting aside the Fair and Decretal Order dated 11.09.2023 passed in I.A.No.1401 of 2022 in O.S.No.13 of 2021 on the file of the District Munsiff Court, Avinashi.

For Petitioner : Mr.P.Santhosh

For Respondents : Mr.C.Veeraraghavan



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the District Munsiff Court, Avinashi in I.A.No.1401 of 2022 in O.S.No.13 of 2021, dated 11.09.2023 dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner to conduct local inspection of the suit property and note down the physical features.

2. The petitioner herein filed a suit for declaration and recovery of possession against the respondents 1 and 2. Pending suit, the respondents 1 and 2 sold the property in favour of the 3rd respondent. Therefore, an application has been filed by the petitioner to implead 3rd respondent in the suit in I.A.No.112 of 2022. The said application was allowed by order dated 11.09.2023.

3. The petitioner also filed yet another application in I.A.No.1401 of 2022 seeking appointment of Advocate Commissioner to conduct local inspection and note down the physical features of the suit property. According to the petitioner, the respondents are attempting to alter the physical features by putting up new construction. The application filed by



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the petitioner has been dismissed by the Trial Court mainly on the ground that the 3rd respondent has not been impleaded as a party defendant in the suit and therefore, no interim direction can be issued as against the 3rd respondent. Aggrieved by the said order, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner would submit that the petition for impleading the 3rd respondent as a party defendant was allowed by the Trial Court on the very same date on which the impugned order was passed. After allowing the impleading application, the Trial Court was not justified in dismissing the application for appointment of Advocate Commissioner on the ground that the 3rd respondent was not made as a party to the suit.

5. The learned counsel appearing for the respondents would submit that on the date of filing of the application for appointment of Advocate Commissioner, the 3rd respondent was not party to the suit. Therefore, the Trial Court was justified in dismissing the application.



6. The copy of the order passed by the Trial Court in I.A.No.112 of 2022 is produced before this Court and a perusal of the same would indicate that the impleading application has been allowed and the 3rd respondent has been ordered to be impleaded as party defendant in the present suit. It is also seen the 3rd respondent also filed counter to the application seeking appointment of the Advocate Commissioner and opposed the same. One of the ground raised by him was that he was not made as a party to the suit.

7. Since the application for impleading the 3rd respondent has been allowed on the very same day, the 3rd respondent is not entitled to oppose the application for local inspection on the ground that he was not made as a party to the suit. By virtue of the impleading order, now the 3rd respondent is arrayed as 3rd defendant in the suit and therefore, as on today, he is a party to the litigation.

8. The suit is for relief of declaration and recovery of possession. It is stated by the petitioner that the respondents are attempting to alter the physical features by putting up construction in the suit property. Any constructions in the suit property pending suit, would create difficulty at the time of execution, in case of success of the plaintiff in the suit. Therefore, it



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is always advisable to note down the physical features through local inspection.

9. In view of the same, this Court feels the petitioner has made out a case for appointment of Advocate Commissioner to conduct local inspection and note down the physical features of the suit property. Accordingly, the impugned order passed by the District Munsiff Court, Avinashi in I.A.No.1401 of 2022 in O.S.No.13 of 2021, dated 11.09.2023 is set aside. The District Munsiff Court, Avinashi is directed to appoint an Advocate Commissioner to conduct local inspection and note down the physical features of the suit property.

10. With this direction, the Civil Revision Petition stands allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

03.02.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The District Munsiff Court, Avinashi.

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S.SOUNTHAR, J.

dm

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