



CRP(MD). No.27 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.27 of 2023
and
CMP(MD) No.180 of 2023**

Sekaran

... Petitioner

Vs

1.Somamoorthy

2.Karunakaran

3.Chandrasekaran

4.Chermakani

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06-08-2022 passed I.A.No.1 of 2021 in O.S.No.58 of 2017 on the file of the Sub Court, Ambasamudram.

For Petitioner : Mr.A.Sankara Ramasubramanian

For R1 to R3 : Mr.Vashile Ali for
Mr.R.Niresh Kumar

For R4 : No appearance



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ORDER

This Civil Revision Petition has been filed challenging the order dated 06.08.2022 made in I.A.No.1 of 2021 in O.S.No.58 of 2017 on the file of the Sub Court, Ambasamudram.

2.The petitioner/plaintiff has filed a suit in O.S.No.58 of 2017 before the Subordinate Court, Ambasamudram, for the relief of declaration along with other reliefs. Pending suit, the petitioner has filed an application in I.A.No.1 of 2021 under Order 26 Rule 9 CPC for appointment of an Advocate Commissioner to inspect and measure the suit property with the assistance of a Surveyor and to file a report. The said application was dismissed on 06.08.2022. Challenging the same, the present Civil Revision Petition has been filed.

3.The learned counsel for the petitioner reiterating all the contentions set out in the memorandum of grounds of Revision would submit that in order to prove the case of the petitioner, it is necessary to appoint an Advocate Commissioner for measuring the property. He would further submit that no prejudice will be caused on the side of the respondents/defendants, if the relief sought for by the petitioner is



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granted by this Court. He would therefore call upon this Court to set aside the order impugned herein and grant the relief as prayed for.

4.The learned counsel for the respondents 1 to 3 would submit that claiming right over the property, the petitioner has already filed suits in O.S.No.103 of 2013 and 176 of 2017 before various Courts and after trial, both the suits have been dismissed. Meantime, the application filed by the petitioner seeking for appointment of an Advocate Commissioner to measure the very same subject property was also dismissed. Now, the petitioner had once again filed the present suit along with the present application for the very same relief. The said application was also dismissed by the Court below by considering all those facts properly. He would further submit that only with an intention to protract the proceedings, the petitioner has filed the present application and sought the relief, which was already declined in the earlier round of litigation. Hence, he prays for dismissal of this petition.

5.Heard the learned counsel on either side and perused the records.



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6. Admittedly, the petitioner filed O.S.No.58 of 2017 for declaration along with other reliefs and pending suit, he filed I.A.No.1 of 2021 for appointment of an Advocate Commissioner to measure the property and to file a report. The same was dismissed on 06.08.2022, which is under challenge herein.

7. From the perusal of records, it is seen that the core dispute between the parties involves title to the property, which is a substantive issue requiring adjudication based on evidence. In such circumstances, the petitioner cannot indirectly assert or enforce rights in a collateral or interlocutory proceeding, without obtaining a declaration of title in properly instituted proceedings. Further, it is to be noted that the suits already filed by the petitioner in respect of the same subject matter had been dismissed and the application filed by the petitioner seeking similar or connected reliefs had also been rejected by the Court below. Hence, this Court is of the view that the petitioner is attempting to re-agitate the very same issues through the present Revision, which is not maintainable.



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WEB COPY 8. In view of the aforesaid discussions, the present Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To

The Subordinate Judge, Ambasamudram.



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N.SENTHILKUMAR, J.

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