



CRP(MD). No.532 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 18.02.2026

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

C.R.P(MD). No.532 of 2023

and

C.M.P(MD) No.2551 of 2023

Ponnambalam

... Petitioner

Vs

Muthukrishnan

... Respondent

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order in I.A.No.1 of 2020 in O.S.No.635 of 2011, dated 03.11.2022 on the file of the learned Principal District Munsif, Tirunelveli and allow this Civil Revision Petition.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondent : Mr.Keerthinathan
for Mr.R.J.Karthick



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ORDER

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This Civil Revision Petition has been filed challenging the order dated 03.11.2022 passed in I.A. No.1 of 2020 in O.S. No.635 of 2011 on the file of the learned Principal District Munsif, Tirunelveli, whereby the learned Judge dismissed the application filed by the revision petitioner seeking appointment of an Advocate Commissioner to inspect the property and report regarding the alleged encroachment made by the respondent/defendant. The trial Court dismissed the application on the ground that an earlier revision petition filed by the petitioner in C.R.P. (MD) No.94 of 2020, by order dated 19.03.2021, had been dismissed and that the present application, seeking the very same relief, was not maintainable.

2. The revision petitioner had originally filed the suit in O.S. No. 635 of 2011 for bare injunction. An earlier application for appointment of an Advocate Commissioner was dismissed and thereafter, the suit itself came to be dismissed. Aggrieved by the same, the petitioner preferred an appeal in A.S. No.86 of 2014 before the Additional Sub Court, Tirunelveli. The first appellate Court remanded the suit to the trial



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Court for fresh consideration and also permitted amendment of the plaint, converting the relief from bare injunction to one for declaration. Thereafter, the present application was filed for appointment of an Advocate Commissioner, which was again dismissed, giving rise to the present Civil Revision Petition.

3. The learned counsel appearing for the revision petitioner contended that the earlier rejection of the application for appointment of an Advocate Commissioner would not operate as a bar in the present circumstances, since the nature of the suit has now been altered from one for bare injunction to one for declaration. It was further submitted that the appointment of an Advocate Commissioner is necessary to measure the property with metes and bounds with the assistance of a qualified surveyor.

4. Per contra, the learned counsel appearing for the respondent submitted that there is no infirmity in the order passed by the trial Court, as the earlier application for appointment of an Advocate Commissioner had already been dismissed and the same relief cannot be sought again.



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5. The point for consideration is whether the earlier rejection of the application for appointment of an Advocate Commissioner would preclude the petitioner from seeking such relief after the suit has been remanded and the nature of the relief has been altered.

6. This Court is of the view that, in view of the remand of the suit and the amendment of the plaint seeking declaration of title, the nature and scope of the suit have undergone a substantial change. In such circumstances, measurement of the suit property with reference to title and boundaries assumes significance for effective adjudication of the dispute between the parties. Therefore, the earlier rejection cannot operate as a bar to the present application.

7. In view of the above, the trial Court is directed to appoint an Advocate Commissioner to inspect the suit property and measure the same with the assistance of a qualified surveyor and file a report and plan.



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8. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order. Considering that the suit is of the year 2011, the trial Court is further directed to dispose of the suit, on merits and in accordance with law, within a period of one year thereafter.

9. With the above directions, this Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

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

18.02.2026

Indu

To

The Principal District Munsif Court,
Tirunelveli.



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N.SENTHILKUMAR, J.

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