



CRP(MD). No.355 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

CRP(MD). No.355 of 2023

and

CMP(MD) No.1713 of 2023

Srinivasan

... Petitioner

Vs

1.P.Palasamy

2.K.Alagarsamy

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04-11-2022 passed in I.A.No.2 of 2022 in O.S.No. 80 of 2021 on the file of the District Munsif Court, Sivakasi.

For Petitioner : Mr.M.Kannan

For R1 : No appearance

For R2 : Mr.M.Tharun Balaji
legal aid counsel

ORDER

This Civil Revision Petition has been filed challenging the order dated 04.11.2022 made in I.A.No.2 of 2022 in O.S.No.80 of 2021 on the file of the District Munsif Court, Sivakasi.



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2.The petitioner/plaintiff has filed a suit in O.S.No.80 of 2021 before the District Munsif Court, Sivakasi, for the relief of declaration along with other reliefs. Pending suit, the petitioner has filed an application in I.A.No.2 of 2022 under Order 26 Rule 9 CPC for appointment of an Advocate Commissioner to inspect and measure the suit property with the assistance of Surveyor as well as the Village Administrative Officer and to file a report. The said application was dismissed on 04.11.2022. 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 Civil Revision Petition 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 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.



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4.Despite service of notice to the first respondent, when the matter is taken up for hearing today, none appears for the first respondent.

5.The learned legal aid counsel for the second respondent would submit that the identity, extent and boundaries of the suit property have already been clearly described in the pleadings and supported by relevant title documents. When sufficient documentary evidence is available on record, there is no need to appoint an Advocate Commissioner for the purpose of measurement. Hence, he prays for dismissal of this petition.

6.Heard the learned counsel for the petitioner and the learned legal aid counsel for the second respondent. Records perused.

7.Considering the facts and circumstances of the case, this Court is not inclined to go into the merits and demerits of the issue involved in the suit. In the case on hand, an order of dismissal for appointment of an Advocate Commissioner to inspect and measure the suit property with the assistance of Surveyor as well as the Village Administrative Officer is under challenge.



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8.By appointing an Advocate Commissioner to measure the suit property, in my opinion, no prejudice will be caused to the other side, as the report of the Advocate Commissioner is itself a piece of evidence to enable the Court to arrive at a definite conclusion either in favour of the petitioner or in favour of the respondents. Hence, this Court is inclined to interfere with the order of the trial Court.

9.Accordingly, this Civil Revision Petition stands allowed and the impugned order dated 04.11.2022 made in I.A.No.2 of 2022 in O.S.No.80 of 2021 on the file of the District Munsif Court, Sivakasi, is hereby set aside. The Court below is directed to appoint an Advocate Commissioner to inspect and measure the suit property with the assistance of a qualified Surveyor as well as the Village Administrative Officer and to file a report along with plan. No costs. Consequently, connected Miscellaneous Petition is closed.

10.The Court places on record its appreciation for the commendable efforts of the legal aid counsel for the second respondent, namely, M.Tharun Balaji, for conducting the case diligently and providing valuable assistance to this Court. The High



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Court Legal Services Committee attached to this Bench shall pay a total sum of Rs.10,000/- towards remuneration to the legal aid counsel for the second respondent for conducting the case, within a period of two weeks from the date of receipt of a copy of this order, without fail.

Registry is directed to forward a copy of this order to the Legal Aid Committee for information.

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

11.02.2026

To

The District Munsif, Sivakasi.



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N.SENTHILKUMAR, J.

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