



C.R.P. (MD) No. 2064 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2026

C O R A M

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P. (MD) No. 2064 of 2023

and

C.M.P. (MD) No. 10318 of 2023

Saravanapandian

... Petitioner

Vs.

- 1.Nagavalli
- 2.Amutha
- 3.Kalairasi
- 4.Kanniammal
- 5.Kalaimathi
- 6.Rakkammal
- 7.Pappa
- 8.Kokila
- 9.Krishnaveni
- 10.Sarasu
- 11.Vijaya
- 12.Sudha
- 13.Govindthammal
- 14.Murugesan
- 15.Naganathan
- 16.Monisha
- 17.Rajkumar



C.R.P. (MD) No. 2064 of 2023

18.Muniammal

19.Raja

20.Lakshmi

21.Krishnan

22.Mallika

... Respondent

PRAYER: Petitions filed under Article 227 of the Constitution of India to set aside the order dated 25.04.2023 passed in I.A. No.91 of 2021 in O.S. No.16 of 2020 on the file of the District Munsif Court, Paramakudi, Ramanathapuram District.

For Petitioner : Mr.K.Yasar Arafath

For Respondents : Mr.D.Senthil

ORDER

This Civil Revision Petition invoking under Article 227 of the Constitution of India has been filed to set aside the order dated 25.04.2023 passed in I.A. No. 91 of 2021 in O.S. No. 16 of 2020 on the file of the District Munsif Court, Paramakudi, Ramanathapuram District (hereinafter referred to as “Trial Court” in short).

2. Heard Mr.D.Senthil, Learned Counsel for the Plaintiff, Mr.D.Senthil, Learned Counsel for the Defendant Nos. 1 to 11, 14 to 16, 18 to 23, 27 and 28 and perused the materials placed on record apart from the pleadings of the parties.



C.R.P. (MD) No. 2064 of 2023

3. The Plaintiff had filed the suit for declaration of title and injunction restraining the Defendants from disturbing the possession of the property. The Defendants claimed title to the property and had sought for recovery of possession of the property from the Plaintiff by way of counter claim. In the said suit, the Defendants had also filed an Application in I.A. No. 91 of 2021 appointing the Advocate Commissioner to inspect the property. The Advocate Commissioner had stated that no specific direction has been given to dig the ground to ascertain as to whether there was any water pipeline. The Defendants had filed another Application in I.A. No. 1 of 2023 for the same and this was ordered by the Trial Court.

4. It is a settled position of law that the evidence collected by the Advocate Commissioner though it cannot be collusively proof and the parties are at liberty to lead appropriate evidence to controvert what has been produced by the Advocate Commissioner and they have also cross-examined, if necessary. That apart, in a suit for declaration of title, the mere circumstance that the Advocate Commissioner has been required to dig the pipeline, cannot by itself determine the title of the property. Though it may be used by the parties for drawing other inferences that apart Section 105(1) and Rule 1(a)(1) of Order 43 of the Civil Procedure Code makes a legal position to clear that a



C.R.P. (MD) No. 2064 of 2023

person aggrieved by an order, would challenge the appeal against the decree and the High Court cannot require to interfere in the interregnum.

5. In this view of the matter, this Court does find any infirmity in the impugned order and it is informed that the Advocate Commissioner has not completed the investigation and he shall file his report in respect of both the orders passed by the Trial Court.

6. In fine, the Civil Revision Petition is disposed on the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

20.01.2026

Index : Yes/No

NCC : Yes/No

Indu

To:-

1. The District Munsif, Paramakudi, Ramanathapuram District.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P. (MD) No. 2064 of 2023

N.SENTHILKUMAR,J.

Indu

C.R.P. (MD) No. 2064 of 2023

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