



CRP(MD). No.3129 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 07.01.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

C.R.P(MD). No.3129 of 2025

and

C.M.P(MD) No.17467 of 2025

E.Palanisamy

... Petitioner/Petitioner/Appellant

Vs

V.Rajkumar

... Respondent / Respondent/Respondent

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the learned Subordinate Judge, Theni, Theni District in I.A.No.3 of 2024 in A.S.No. 23 of 2020 dated 31.07.2025 and allow the Civil Revision Petition.

For Petitioner : Mr.Rajakarthikeyan
for Mr.Muruganantham.D

For Respondent : Mr.K.Dhanushkumar
for Mr.M.Uthaya Suriyan



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ORDER

WEB COPY The present Civil Revision Petition is filed challenging the order dated 31.07.2025 passed by the learned Subordinate Judge, Theni, Theni District, in I.A.No.3 of 2024 in A.S.No.23 of 2020.

2. The revision petitioner is the plaintiff in the suit, which was filed for bare injunction. According to the revision petitioner, the suit was dismissed on the ground that no documentary evidence was produced to establish his possession over the suit schedule property. Aggrieved by the judgment and decree passed in O.S.No.153 of 2012, the revision petitioner preferred an appeal in A.S.No.23 of 2020. During the pendency of the appeal, the revision petitioner filed I.A.No.3 of 2024 seeking appointment of an Advocate Commissioner to ascertain the boundaries of the suit property and to measure and demarcate the same with the assistance of a Surveyor. The said application was dismissed, holding that when the suit itself was dismissed for want of documentary evidence to prove possession, the question of appointing an Advocate Commissioner does not arise.

3. The learned counsel for the respondent pointed out that the suit



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scheduled property itself arises out of a settlement deed, which was marked as Ex.A1, dated 02.09.1946, before the trial Court, whereas the settlement deed was entered to an extent of 630 square feet in which, 430 sq.ft was sold by way of sale deed, which was marked as Ex.A.3, dated 06.10.1980. Therefore, the revision petitioner failed to establish any subsisting right or possession over the suit property by producing valid documentary evidence.

4. When the plaintiff was unable to establish his right or possession over the suit property through acceptable documentary evidence before the trial Court, filing an application for appointment of an Advocate Commissioner at the appellate stage cannot cure the fundamental defect. The application filed in the appeal was rightly dismissed by the first appellate Court.

5. The only point for consideration is whether there exists any necessity to appoint an Advocate Commissioner at this stage, when the suit itself stood dismissed for want of documentary evidence. This Court finds that the order passed by the first appellate Court does not suffer from any irregularity or infirmity warranting interference. Hence, this



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Civil Revision Petition is dismissed. Consequently, the connected
Miscellaneous Petition is closed. No costs.

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

07.01.2026

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To

The Subordinate Court,
Theni, Theni District.



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N.SENTHILKUMAR, J.

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