



CRP(MD). No.3772 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 22.01.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

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and

CMP(MD) No.19860 of 2025

D.Seeman

... Petitioner

Vs

T.Krishnan

... Respondent

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Ex order dated 26.02.2024 made in I.A.No.1 of 2023 in O.S.No.389 of 2013 on the file of the Principal Sub Judge, Palani.

For Petitioner : Ms.K.Vidya

For Respondent : Mr.T.Lenin Kumar

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 26.02.2024 passed in I.A.No.1 of 2023 in O.S.No. 389 of 2013 on the file of the Principal Sub Court, Palani.



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2.The petitioner/plaintiff has filed a suit in O.S.No.389 of 2013 on the file of the Principal Sub Court, Palani, seeking for the relief of declaration and permanent injunction. Pending suit, an Advocate Commissioner was appointed in I.A.No.634 of 2015, and after measuring the property, he had filed his report on 11.09.2023. Seeking to reissue the commission warrant and to inspect the subject property, on the basis of the Topo Sketch and the sale deeds, dated 23.04.1980 and 23.02.1982, the petitioner/plaintiff has filed I.A.No.1 of 2023 and the same was dismissed by the Court below, vide order, dated 26.02.2024. Aggrieved by the said order, the present Civil Revision Petition has been filed.

3.It is the main contention of the learned counsel for the petitioner that even though the Advocate Commissioner was appointed in the year 2015 itself, he has filed his report after an abnormal and unexplained delay of more than eight years, which defeats the very purpose of appointment. It is settled law that a Commissioner is an extended arm of the Court and his report must be submitted within a reasonable time. An extraordinary delay renders the report unreliable and legally unsustainable. Hence, he prays for appropriate orders.



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4.The learned counsel for the respondent would submit that mere delay in filing the report cannot be a sole ground for rejection, unless prejudice is specifically established. The Advocate Commissioner is an Officer of the Court and functions under its supervision. If the Court permitted extensions, the report cannot be discarded solely on the ground of lapse of time. He would further submit that the report remains a piece of evidence under Order XXVI Rule 10 CPC, and its probative value must be tested during trial, not rejected summarily. Hence, he prays for dismissal of this petition.

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

6.Admittedly, even though an Advocate Commissioner was appointed in I.A.No.634 of 2015 in the year 2015, he had filed the report after an inordinate and unexplained delay of more than 8 years from the date of appointment. It is to be noted that the Commissioner was appointed for the limited purpose of inspecting and measuring the suit property and submitting a report to assist the Court in effective adjudication of the dispute. However, in the case on hand, the report



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came to be filed after an abnormal delay of over 8 years, without any justifiable reason placed on record. Such prolonged delay defeats the very object of appointing a Commissioner and causes serious prejudice to the parties. Further, the report submitted after an inordinate lapse of time, particularly in property matters, cannot be safely relied upon, as physical features and possession may undergo substantial change during the intervening period. In view of the unexplained and excessive delay, the trial Court ought not to have acted upon the said report.

7. In fine, the Civil Revision Petition stands allowed and the impugned order accepting the belated Commissioner's report is therefore set aside. The matter is remitted back to the trial Court with liberty to appoint a fresh Advocate Commissioner for proper adjudication of the suit. It is made clear that the very same Advocate Commissioner appointed earlier shall not be appointed in this case further. No costs. Consequently, connected Miscellaneous Petition is closed.

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

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: Yes / No

To

The Principal Subordinate Judge, Palani.



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N.SENTHILKUMAR, J.

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