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C.R.P.No.458 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.458 of 2024
and
C.M.P.No.2184 of 2024

U.Rajamanickam

... Petitioner

VS.

1.P.Jegannathan

2.J.Kasinathan

3.J.Priyanka

4.J.Vignesh

5.J.Priyadharshini

6.Vasanth

7.U.Kandasamy

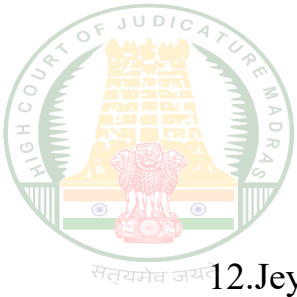
8.M.Selvi

9.Nandhini

10.Santhi

11.Kaliammal

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12.Jeyamani

13.U.Sekar

14.Parvathi

15.Vellaiyan

16.Kandasamy

17.Velu

18.Periasamy

19.Kandasamy

20.Velu

21.Palanisamy

22.Vijaya @ Pappathi

23.Vadivel

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Final Orders dated 01.11.2023 passed in I.A.No.3 of 2023 in O.S.No.63 of 2023 on the file of the I Additional District Munsif Court at Salem and allow the above C.R.P.

For Petitioners : Ms.D.Jeevitha
for M/s.R.Nalliyappan

For R1 to R10 : M/s.H.Prosper



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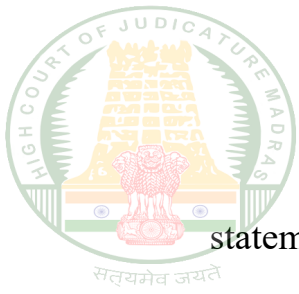
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ORDER

The Civil Revision Petition is filed challenging the order passed by the I Additional District Munsif Court, Salem in I.A.No.3 of 2023 in O.S.No.63 of 2023, dated 01.11.2023 allowing the application filed by the respondents 1 to 10/plaintiffs seeking appointment of Advocate Commissioner to note down the physical features and file a report with rough sketch.

2. The respondents 1 to 10 filed a suit for partition and various other reliefs. One of the relief prayed by the plaintiffs was declaration regarding their 3/12th share in the North-South pathway in suit Item No.1 and injunction restraining the defendants from interfering with their right over the same.

3. In the written statement filed by the petitioner/2nd defendant, it was claimed by him that plaintiffs have got alternative pathway and they have no right over the suit pathway. It is further stated by the petitioner in the written



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statement that pathway mentioned by the plaintiffs actually located in the property belonged to the defendants, therefore, the plaintiffs cannot lay any claim over the suit pathway.

4. In view of the controversy in the pleadings as to the location of the suit pathway and the existence of alternate pathway, the local inspection by the Advocate Commissioner will certainly help the Court to come to the conclusion whether the plaintiffs are having any alternate pathway and whether the suit property is situated in the property exclusively belongs to the defendants. The Trial Court rightly appreciated the same and allowed the application.

5. The learned counsel appearing for the petitioner mainly try to assail the impugned order passed by the Trial Court on the ground that in the earlier suit filed by the petitioner against the respondents 1 to 10 seeking injunction, a similar application for appointment of Advocate Commissioner was filed by the respondents and the same was dismissed. Therefore, the present application ought not have been allowed by the Trial Court.



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6. The earlier suit was only for bare injunction and it is settled law in a suit for injunction, the possession of the parties has to be decided based on evidence and it cannot be decided by local inspection by the Advocate Commissioner. However, the present suit is for declaration and injunction regarding the right of the plaintiffs over the suit pathway and there is a dispute with regard to the location of the suit pathway and also existence of alternate pathway, therefore, this Court feels report by Advocate Commissioner after local inspection will certainly help the Court to decide main controversy in the suit in a comprehensive way. I do not find any error in the impugned order passed by the I Additional District Munsif Court, Salem in I.A.No.3 of 2023 in O.S.No.63 of 2023, dated 01.11.2023.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

21.01.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The I Additional District Munsif Court, Salem.

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S.SOUNTHAR, J.

dm

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