



C.R..P.(NPD)(MD).No.1736 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(NPD)(MD)No.1736 of 2017

and

C.M.P(MD) No.9425 of 2017

Rajagopalan

... Petitioner/Petitioner/
Plaintiff

Vs.

1. Saraswathi

2. Sreemathi

3. Saroja

4. Chandri

5. George

... Respondents/
Respondents/
Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order and decretal order passed in I.A.No.303 of 2015 in O.A.No.61 of 2013 dated 04.08.2017 on the file of the II Additional District Munsif, Kuzhithurai and allow the above Civil Revision Petition.

For Petitioner : Mr.G.Ramanathan

For Respondents : No appearance



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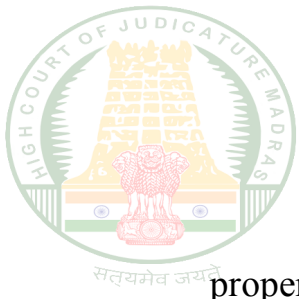
ORDER

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The plaintiff in O.S.No.61 of 2013, on the file of the II Additional District Munsif Court, Kuzhithurai, has filed the present Civil Revision Petition challenging the dismissal of his application for appointment of Advocate Commissioner.

2. A perusal of the records reveal that the suit has been filed for the relief of declaration of title and recovery of possession. According to the plaintiff, he is the owner of two cents of land, which is shown as “A” schedule property. The plaintiff has further contended that out of two cents, one cent has been encroached upon by the defendants which is shown as “B” schedule property. The defendants have filed a written statement disputing the title of the plaintiff over the entire extent of two cents. It is the further case of the defendants that they are the owners of three cents of land and the “B” schedule property is part of the said three cents.

3. In the light of the above said pleadings in the plaint and the written statement, the plaintiff has filed I.A.No.303 of 2015 for appointment of an Advocate Commissioner to prepare a plan of “A” schedule and the defendants



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properties and shown therein “B” schedule properties sought to be recovered.

The trial Court has proceeded to dismiss the said application primarily on the ground that the suit is for declaration of title and recovery of possession and when the title is disputed by the defendants, the question of appointment of an Advocate Commissioner does not arise. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, the appointment of an Advocate Commissioner would clearly establish the fact that the defendants have encroached over the property of the plaintiff which is shown as “B” schedule property in the suit and it will reduce the oral and documentary evidence on either side. He further contended that the judgments relied upon by the trial Court for dismissing the said application are not applicable to the facts of the present case. In fact, there is no delay on the part of the plaintiff in filing such an application for appointment of Advocate Commissioner. Even before the trial has begun, such application came to be filed.



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5. Heard the learned counsel appearing for the petitioner. Though the respondents have been served and their names were also printed in the cause list, they have not chosen to appear in person or through their counsel.

6. The prayer in the plaint reveals that the suit is for declaration of title and recovery of possession over the “B” schedule property which is said to be part of “A” schedule property. The defendants have filed their written statement disputing the title of the plaintiff over the entire “A” schedule property. In such circumstances, the appointment of an Advocate Commissioner would not in any way help the revision petitioner or the Court in the adjudication of the dispute between the parties.

7. Considering the fact that the suit is pending from the year 2013 onwards, the trial Court is directed to dispose of the suit in O.S.No.61 of 2013 on or before **30.11.2025**.



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8. With the above said observations, this Civil Revision Petition is disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

24.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The II Additional District Munsif Court,
Kuzhithurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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