



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-08-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition No.4509 of 2026

and

C.M.P.No.19812 of 2026

1. Balasubramaniam

S/o.M.Madhesan

Rani (Died)

W/o.M.Balasubramaniam

Saraswathi (Died)

W/o.Late Mathesan

2. M.Leelavathi

W/o Shanmugham

3. Minor B.Padmavathy

4. Minor B.Ramya

(Minor Petitioners 3 and 4 are represented by
father Balasubramaniam)

..Petitioners

Vs

Mahalingam (Died)

S/o.Late Mari Chetty

1. M.Sivaraj,

S/o.Late Mahalingam

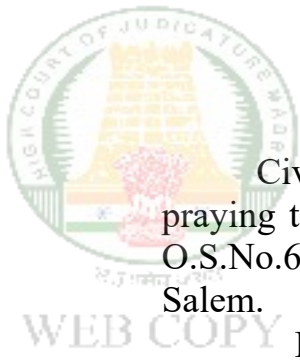
2. Dhanalakshmi

W/o.Late Mahalingam

3. Priyadharshini

D/o.Late Mahalingam

..Respondents



Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 28.10.2025 passed in I.A.No.6 of 2024 in O.S.No.665 of 2018 on the file of the learned Additional District Munsif II, Salem.

For Petitioners : Mr.S.Ravichandran

ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India challenging the order dated 28.10.2025 passed in I.A.No.6 of 2024 in O.S.No.665 of 2018, wherein the application filed by the respondents/plaintiffs for appointment of an Advocate Commissioner was allowed by the Court below.

2. Heard learned counsel for petitioners and perused the materials available on record. This Court also went through the impugned order.

3. The respondents are the plaintiffs in the suit filed in O.S.No.665 of 2018. The suit was filed seeking the relief of mandatory injunction directing the defendants to remove the constructions put up in the suit property, which is alleged to be a common pathway and for a permanent injunction restraining the defendants from interfering with the repair works conducted by the plaintiffs.

4. During the pendency of the suit, I.A.No.6 of 2024 came to be filed by respondents/plaintiffs for appointment of an Advocate Commissioner to inspect



the property and to note down the physical features. This application was filed mainly to see if any construction has been put up in the disputed pathway.

WEB COPY

5. The Court below, on considering the facts and circumstances of the case and the nature of relief sought for in the present application, thought it fit to appoint an Advocate Commissioner, who will seek the assistance of the Village Administrative Officer/Surveyor and measure the property and note down the physical features and file a report before the Court and that the said report will help the Court while finally deciding the suit. Aggrieved by the said order, the present revision has been filed before this Court.

6. The main ground urged by learned counsel for petitioners is that the respondents had played a fraud before the Court below since there is already a decree passed in O.S.No.683 of 2000 wherein there is a specific reference about the availability of a 4 feet width lane as a pathway and that apart, the construction is there for more than 30 years and in spite of knowing the same, the application has been filed only with a view to drag on the suit filed in the year 2018.

7. In the considered view of this Court, the Commissioner's report is only another piece of evidence before the Court and the same does not decide the entire dispute involved in the suit. Whatever is the defence that is available to



N.ANAND VENKATESH, J.

gm

the petitioners will be considered on its own merits and the Court below only wanted to know if there is any construction over the disputed pathway. That report by itself will not take away the right of the petitioners to establish their defence regarding the disputed pathway and the construction that is available there.

8. The order passed by the Court below does not suffer from perversity warranting interference of this Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
gm

To
The Additional District Munsif II,
Salem.

Civil Revision Petition No.4509 of 2026