



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-07-2026

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

CRP No. 3903 of 2026

and

CMP No. 17098 of 2026

1. Eswaran Alias Eswaramoorthy

Petitioner(s)

Vs

1. M.Palanisamy

2.Kandasamy

Respondent(s)

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and decretal order dated 04.02.2026 made in IA No. 5 of 2025 in OS No. 1155 of 2023 on the file of the Principal Sub Court, Erode by allowing this CRP and thus render justice.

For Petitioner(s): M/s.R.Renukadevi for
Mr.N.Manoharan

For Respondent(s): Mr.J.Titus Enock

ORDER

This Civil Revision Petition has been filed, challenging the impugned order dated 04.02.2026 passed by the Principal Sub Court, Erode, in I.A. No. 5 of 2025 in O.S. No. 1155 of 2023.



2. In the aforesaid order, the Principal Sub Court, Erode had appointed an Advocate Commissioner to survey the property comprised in R.S.No.155/2 and R.S.No.155/19. The petitioner is the first defendant in the suit, O.S. No.1155 of 2023. The suit has been filed by the first respondent/plaintiff, seeking for declaration and injunction.

3. The first respondent/plaintiff claims that he is the owner of the suit schedule property. The first respondent/plaintiff claims that the property comprised in R.S. No.155/2 and R.S.No.155/19 are one and the same. However, the petitioner/first defendant has contended that R.S.No.155/19 is absolutely owned by him and the first respondent/plaintiff does not have any right over the same.

4. In the impugned order, an Advocate Commissioner has been appointed to survey and measure the property comprised in R.S.No.155/2 and R.S.No.155/19.

5. The learned counsel for the petitioner would submit that since there was a boundary dispute, the petitioner had filed a writ petition earlier before this Court and by order dated 12.10.2023 passed in W.P.No.29625 of 2023, in the



writ petition filed by the petitioner, survey of the property was conducted on 25.10.2023. Therefore, she would submit that there is no requirement for one more survey through the appointment of an Advocate Commissioner in the suit pending between the parties. She would also submit that with regard to R.S. No.155/19, the first respondent/plaintiff has no right over the same, as the property comprised in R.S. No.155/19 is absolutely owned by the petitioner/first defendant.

6. Since there is a dispute with regard to whether the property comprised in R.S. No.155/19 and the property comprised in R.S.No.155/2 are the same or not, this Court is of the considered view that there is no error committed by the Trial Court in passing the impugned order, as it only aids to ascertain whether the property comprised in R.S. No.155/19 and the property comprised in R.S. No.155/2 are one and the same or not.

7. Even though the learned counsel for the petitioner contended before this Court that the first respondent/plaintiff cannot seek any relief in respect of the property, which is not the suit schedule property, the said contention has to be rejected by this Court at this stage, in view of the fact that it has to be ascertained whether the property comprised in R.S. Nos.155/2 and 155/19 are one and the same or not, and only the Advocate Commissioner in the impugned



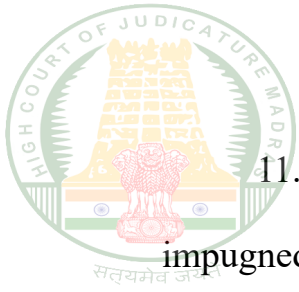
order can ascertain the same through his report.

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8. The interest of the petitioner/first defendant will also be protected, as he has got every right to raise objections before the Trial Court as and when any adverse report is submitted by the Advocate Commissioner pursuant to the impugned order passed by the Trial Court. The petitioner is also having the right to cross-examine the plaintiff's witness as well as the Advocate Commissioner, if he is so desires, to protect his interest over the property comprised in R.S. No.155/19.

9. It is also to be noted that in the earlier writ petition filed by the petitioner/first defendant, the first respondent/plaintiff was not a party to the said writ petition, even though he may have been served with notice by the Surveyor before conducting the survey pursuant to directions issued by the High Court in the said writ petition.

10. Since the petitioner's right has not been defeated by the passing of the impugned order, this Court is not interfering with the impugned order.



11. For the foregoing reasons, this Court, without interfering with the impugned order, disposes of this Civil Revision Petition by granting liberty to the petitioner to raise objections as and when the Advocate Commissioner appointed under the impugned order submits a report and this Court also grants liberty to the petitioner/first defendant to cross-examine the plaintiff's witness in case any adverse observations have been made in the Advocate Commissioner's report, which is detrimental to the petitioner's right over his property.

12. The petitioner is also permitted to raise all objections at the time of final arguments in the suit and, if he so desires, he is also granted liberty to cross-examine the Advocate Commissioner. No costs. Consequently, connected miscellaneous petition is closed.

17-07-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To
The Principal Sub Court, Erode.



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ABDUL QUDDHOSE J.

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