



WEB COPY

CRP No. 4942 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-08-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 4942 of 2026

and

CMP No.21580 of 2026

Natarajan

..Petitioner(s)

Vs

Radha (Died)

1. Poongodi

2. Sankar

..Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order in IA.No.05/2025 in OS.No.99/2016 dated 27.04.2026 passed by the District Munsif, Dharmapuri and thereby allow the above Civil Revision Petition.

For Petitioner(s):

Mr.B.Gopalakrishnan

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order passed in IA.No.05 of 2025 in OS.No.99 of 2016, dated 27.04.2026, on the file of the District Munsif, Dharmapuri, wherein the application filed by the petitioner/second defendant under Order XXVI Rule 9 of CPC for appointment of an Advocate Commissioner came to be dismissed by the Court below.



2.This Court heard the learned counsel appearing for the petitioner and carefully perused the materials available on record. This Court also carefully went through the order passed by the Court below.

3.The respondents are the plaintiffs who have filed a suit in OS No.99 of 2016 seeking for the relief of declaration and for permanent injunction. The suit was at the stage of evidence on the side of the defendants. At this stage, the application came to be filed by the petitioner/second defendant under Order XXVI Rule 9 of CPC for appointment of an Advocate Commissioner on the ground that the plaintiffs were attempting to alter the physical features of the suit property and remove the existing boundaries during the pendency of the suit and the same has to be ascertained by way of appointing an Advocate Commissioner to inspect the property and file a report.

4.The Court below dismissed the application on the ground that the application filed by the petitioner was only with a view to collect evidence and an Advocate Commissioner cannot be appointed for this purpose. Aggrieved by the same, the present Civil Revision Petition has been filed before this Court.

5.In the considered view of this Court, the burden of proof is upon the plaintiffs to establish their right and title over the suit property. The petitioner



wants an Advocate Commissioner to be appointed to note down the alleged alteration of the suit property made by the plaintiffs. Even if the Advocate Commissioner is appointed and a report is filed, that will not in any way help the Court in deciding the actual dispute in question. The purpose of appointing an Advocate Commissioner is to help the Court dispose of the suit effectively and if the report itself will not have any bearing when the suit is decided finally, no useful purpose will served in appointing the Advocate Commissioner.

6.The reasoning assigned by the Court below while dismissing the application does not suffer from any perversity warranting interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

7.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19-08-2026

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

SLI

To
The District Munsif,
Dharmapuri.



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N.ANAND VENKATESH, J.

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