



WEB COPY

CRP No. 6491 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 6491 of 2025

AND

CMP NO. 32059 OF 2025

A.Sounthararaj
S/o.Athiyappan,
10 Ward, Kattukottai,
Belukrichi Village,
Sendhamangalam Taluk,
Namakkal District 637 402.

..Petitioner(s)

Vs

1. Athiyappan
S/o.Ramasamy Gounder,
10 Ward, Kattukottai,
Belukrichi Village,
Sendhamangalam Taluk,
Namakkal District 637 402.
2. Balamani
S/o.Dhanaraj,
Ward 10, Therku Kadu,
Belukrichi Village,
Sendhamangalam Taluk,
Namakkal District 637 402.
3. Karthikeyan
S/o.Dhanaraj,
Ward 10, Therku Kadu,
Belukrichi Village,
Sendhamangalam Taluk,
Namakkal District 637 402.

..Respondent(s)

**PRAYER**

Civil Revision Petition filed under Art.227 of Constitution of India, praying to set aside the order and decree dated 29.07.2025 passed in I.A.No.4 of 2023 in O.S.No.451 of 2023 on the file of Special Court for Trial of cases registered under SC/ST (POA) Act, Namakkal.

For Petitioner(s): Mr.P.R.Vineeth

For Respondent(s): Mr.D.Nagasaila
For R2 & R3

R1 - No Appearance

ORDER

Challenging the impugned order passed in I.A.No.4 of 2023 in O.S.No.451 of 2023 by the learned Special Court for trial of cases registered under SC/ST (POA) Act, Namakkal, the Revision Petitioner/plaintiff had preferred this Civil Revision Petition.

2. Before the trial court, the Revision Petitioner/plaintiff had filed an application under Order 26 Rule 9 of C.P.C. seeking for appointment of an Advocate Commissioner to visit the suit property and to note down the physical features and file a report along with plan. On hearing both sides, the said application was dismissed by the trial judge. Aggrieved over that, he preferred this Civil Revision Petition.



3. The learned counsel for revision petitioner would submit that they came forward with the said application only to note down the physical features, which was altered by the respondents/defendants. But, the trial judge failed to consider the same and erroneously dismissed the application. Hence, he prayed to set aside the findings of trial judge.

4. On seeing the entire prayer of the affidavit, it reveals that the revision petitioner/plaintiff wanted to appoint an Advocate Commissioner to note down the physical features of entire suit property. But, admittedly, in respect of common passage, already the findings was rendered in A.S.No.169 of 1987, wherein it has been held that the width of cart track is 6 cubits and not 8 cubits. On perusal of records, again he came forward with the said application claiming 8 cubits of cart track. To that effect, the respondents/defendants 2 and 3 have raised objections. On hearing both sides, the trial judge dismissed the said application holding that the suit itself was affected by principles of resjudicata. Indeed, the earlier findings rendered in A.S.No.169 of 1987 declaring the pathway to a width of 6 cubits again reflected in the present suit, which is not permissible under law. Therefore, for collection of evidence, the filing of application for the report of Advocate Commissioner is not necessary and the same is not permissible under law. Hence, the findings rendered in I.A.No.4 of 2023 in O.S.No.451 of 2023 by the Special Court for trial of cases registered



under SC/ST (PoA) Act, Namakkal is confirmed and this Civil Revision
Petition is dismissed. No costs. Consequently, connected civil miscellaneous
petition is closed.

17-04-2026

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

RPP

To

The Special Court for trial of cases registered under SC/ST (PoA) Act,
Namakkal



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T.V.THAMILSELVI J.

RPP

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