



CRP(MD). No.1692 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 03/07/2026

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

CRP(MD). No.1692 of 2026
and
CMP(MD)No.8168 of 2026

Janaki

... Petitioner

Vs

1.Shanthi

2.Ravi

3.Ayyammal

4.Srinivasan

... Respondents

PRAYER :-

Civil Revision Petition filed under Article 227 of The Constitution of India to set aside the decretal order and fair order dated 02.03.2026 passed in I.A. No. 06 of 2025 in I.A. No. 03 of 2020 in O.S. No. 42 of 2018 on the file of the Learned District Munsif Court, Sattur by allowing this Civil Revision Petition.

For Petitioner : Mr.K N Vijayasenthil Kumar



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking to scrap the report filed by the Advocate Commissioner dated 02.08.2023 in I.A.No.3 of 2020 and to appoint a fresh Advocate Commissioner to measure the suit property and file a report.

2.The petitioner herein instituted a suit seeking declaration of title and recovery of vacant possession after removal of encroachment in the second item of the suit property. The petitioner also sought for injunction restraining the defendants from putting up any construction in the item No.1 of the suit property. Pending suit, at the instance of the petitioner, already an Advocate Commissioner was appointed in I.A.No.209 of 2018, and the Advocate Commissioner filed his report on 31.07.2019. Since, in the said report, the measurement of the suit property and the physical features founded thereon were not exactly mentioned, the petitioner filed an application in I.A.No.3 of 2020 seeking to scrap the earlier report and appoint a fresh Advocate Commissioner to measure the



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property and file a report. The said I.A.3 of 2020 was allowed and a fresh Advocate Commissioner was appointed. The new Advocate Commissioner filed a detailed report on 02.08.2023. The petitioner filed his objection to the report. Not being satisfied with the report filed by the second Commissioner on 02.08.2023, the instant application has been filed by the petitioner seeking to scrap the same and for appointment of a fresh Advocate Commissioner. The said application was dismissed by the trial Court. Aggrieved by the same, the petitioner has come before this Court.

3.The learned counsel appearing for the petitioner would submit that the Advocate Commissioner has not given the correct measurement of the suit property and the same has been pointed out by the petitioner in his objections. It is further stated that there are contradictions between the plans submitted by the Advocate Commissioner and the report submitted by him. Therefore, the report submitted by the Advocate Commissioner shall be scrapped and a fresh Advocate Commissioner need to be appointed to file a fresh report giving the exact measurement of the suit property and the constructions founded thereon.



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4.As mentioned earlier, the report submitted by the earlier Advocate Commissioner in I.A.No.209 of 2018 was scrapped, and therefore, the Advocate Commissioner was appointed at the instance of petitioner as per the order passed in I.A.No.3 of 2020. The petitioner is not satisfied with the report filed by the second Advocate Commissioner also. Merely, because the petitioner is not satisfied with the report submitted by the Advocate Commissioner, the report cannot be scrapped mechanically without pointing out any defect in the said report. Not being satisfied with the report submitted by the Advocate Commissioner, the petitioner has already filed his objections pointing out the deficiencies in the report.

5.In the facts and circumstances of this case, this Court feels that the Advocate Commissioner shall be examined and the petitioner shall be given an opportunity to opportunity to cross examine the Advocate Commissioner with regard to the defects pointed out by the petitioner. After examination of the Commissioner, if the Court feels that reissue of the warrant to the Advocate Commissioner is required to find out the defects in his report, it can always pass an order. Without doing so, the



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prayer sought for by the petitioner seeking to scrap the report and to appoint a fresh Advocate Commissioner cannot be countenanced at this stage. The trial Court rightly observed that the report of the Advocate Commissioner cannot be scrapped and a fresh Advocate Commissioner cannot be appointed at the instance of one of the parties mechanically and dismissed the petition. I do not find any infirmity in the order passed by the trial Court.

6.In the light of the above discussions, the Civil Revision Petition stands dismissed with an observation that the Advocate Commissioner shall be examined. After such examination, if it is established that reissue of the warrant is necessary to clear the doubts or defects in the report, it is always open to the trial Court to consider the same. With this clarification, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.07.2026

sjj
NCC : Yes/No



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S.SOUNTHAR, J.

sjj

TO

The District Munsif Court, Sattur.

ORDER
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