



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2026

CORAM

THE HONOURABLE MR JUSTICE S. SOUNTHAR

**C.R.P(MD).No.1671 of 2026
and C.M.P(MD).No.8085 of 2026**

N.Thennarasu

... Petitioner

Vs

1.Murugesan

2.Pitchai

3.Kannan

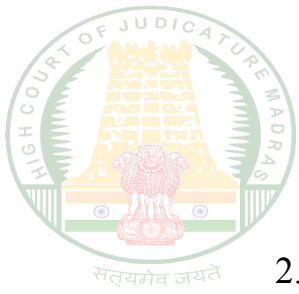
... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the impugned fair and decreetal order passed in I.A.No.2 of 2026 in O.S.No.354 of 2022 on the file of the learned Subordinate Judge, Thirumangalam, Madurai District dated 01.06.2026, set aside the same as illegal.

For Petitioner : Mr.A.Raja
for Mr. C.M.Arumugam
For Respondents : Mr.M.Palani

ORDER

This civil revision petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking appointment of an Advocate Commissioner to measure the suit property with the help of surveyor.



WEB COPY

2.The petitioner herein filed a suit in O.S.No.354 of 2022 on the file of the Subordinate Court, Thirumangalam, seeking declaration of title and permanent injunction. According to the plaintiff, the suit property situated in S.No.34/9 measuring an extent of 2 acres 67 cents was originally owned by Periyakaruppa Konar, who had three children namely Palaniyandi, Chinnachamy and Rakkayee Ammal. The aforesaid Palaniyandi was in possession and enjoyment of an extent of 30 cents in S.No.34/9. The petitioner purchased 11 cents out of the said land from the said Palaniyandi under registered sale deed dated 17.02.1997. The petitioner has been enjoying the suit property right from the date of purchase. The defendants, who are all utter strangers to the suit property, attempted to interfere with the plaintiff's possession. Therefore, instant suit seeking declaration of title and permanent injunction had been laid.

3.The respondents/defendants filed their written statement and seriously disputed the title and possession of the plaintiff over the suit property. According to the defendants, the total extent available in the suit survey number was only 2 acres 62 1/2 cents. However, the plaintiff's vendors sold nearly 4 acres 23 cents to various persons under various sale deeds. Therefore, by disputing the title of the plaintiff's vendor to sell more



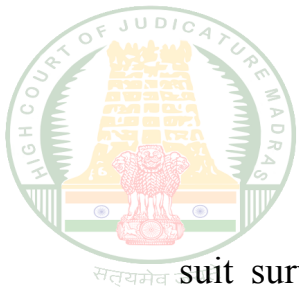
WEB COPY

than 4 acres and 23 cents in the suit survey number, the defendants sought for dismissal of the suit.

4. Pending suit, the petitioner/plaintiff filed an application seeking appointment of an Advocate Commissioner to measure the suit property with the help of qualified Surveyor and the said application was dismissed by the Trial Court on the grounds that there was no dispute with regard to the identity of the property. Aggrieved by the same, the petitioner has come before this Court.

5. The learned counsel appearing for the petitioner contended that the identity of the suit property has been seriously disputed by the defendants in their written statement and in such circumstances, the Trial Court had committed error in dismissing the application for appointment of an Advocate Commissioner.

6. A perusal of the written statement filed by the respondents /defendants would indicate that the defendants have not disputed the identity of the suit property. Their defence is that the vendor of the plaintiff sold nearly 4 acres of land though the total extent available in the



WEB COPY

suit survey number was only 2 acre and 62 ½ cents. On that basis, they disputed the title of the plaintiff over the suit property. The dispute with regard to the title can be resolved only by production of all the documents executed by the plaintiff's vendor. If the plaintiff is the earlier purchaser, his title under the sale deed would prevail over the title claimed under the subsequent sale deeds executed by the same vendor. On the other hand, if the plaintiff is the subsequent purchaser, he would have to establish that his vendor had valid title to the extent of 11 cents on the date of execution of the sale deed in his favour. The said question can be decided based on the document filed by the parties before the Court and there is no necessity for appointment of an Advocate Commissioner.

7.It is also alleged by the petitioner that the defendants without having any manner of right attempted to interfere with his possession. It is settled law possession of the parties cannot be determined through an inspection by the Advocate Commissioner and the same shall be proved by leading other evidence. Therefore, the Trial Court rightly came to the conclusion that there was no necessity for appointment of an Advocate Commissioner to resolve the controversy involved in this case. I do not find any illegality in the order passed by the Trial Court. Accordingly, this Civil Revision Petition stands



WEB COPY

dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

01.07.2026

NCC : Yes/No

Index : Yes/No

Rmk

To

- 1.The Subordinate Judge, Thirumangalam, Madurai District .
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



S. SOUNTHAR.J.

Rmk

C.R.P(MD).No.1671 of 2026

01.07.2026