



C.R.P(MD)No.2014 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2026

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THE HON'BLE MR. JUSTICE S.SOUNTHAR

C.R.P.(MD)No.2014 of 2026

and

C.M.P(MD)No.9644 of 2026

1.K.K.Radhakrishnan

2.S.Susila

.. Petitioners

Vs.

Kumar (deceased)

1.Subbulakshmi

2.P.Jayalakshmi

3.K.P.Ilangovan

4.P.Jikki

5.P.Tamilmaran

6.P.Thilagam

7.M.Saraswathi

8.M.Balaji

9.Anuja

10.Nandhini

.. Respondents

PRAYER: civil revision petition filed under Article 227 of the Constitution of India to call for the records relating with the Fair and Executable order dated 01.06.2026 made in I.A.NO.2/2025 in O.S.No. 267/2019 on the file of the III Additional Subordinate Judge, Madurai and set aside the same.



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For Petitioners : Mr.R.Suriya Narayanan

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ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioners seeking appointment of an Advocate Commissioner.

2.The petitioners herein filed a suit for bare injunction. According to the petitioners, they purchased Item No.1 of the suit property from the defendants 1 and 2 under a sale deed dated 01.12.2006 for valuable consideration. However, while describing the property in the sale deed, the defendants, who retained one cent of land on the western side of the property purchased by the petitioners, erroneously described the property sold to the petitioners as the property situated on the south and east of the property retained by them. It is further stated that the petitioners are in settled possession of the suit property and therefore, entitled to have their possession protected by way of injunction.

3.The defendants filed their written statement denying the right, title and possession of the petitioners over the suit property.



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4.The petitioners thereafter filed the instant application seeking appointment of an Advocate Commissioner to measure the suit property with reference to the title deeds of both the petitioners and the respondents. The said application was dismissed by the trial Court. Aggrieved by the same, the petitioners have come before this Court.

5.The learned counsel appearing for the petitioners would submit that, in view of the misdescription found in the sale deed executed in favour of the petitioners, the suit property should be measured with the assistance of an Advocate Commissioner, and such measurement would help the Court effectively to decide the controversy involved in the suit.

6.As stated earlier, the petitioners have not sought any declaration regarding their title to the suit property or any declaration with respect to the description of the property found in their title deed. The suit has been filed only for bare injunction based on their alleged possession. It is well settled that in a suit for bare injunction, appointment of an Advocate Commissioner is ordinarily not necessary, as the Commissioner cannot render any finding regarding the person in possession of the suit property.



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7.The petitioners, having pleaded that they are in possession of the suit property and are entitled to an order of injunction against the defendants, have to establish their possession by independent evidence, and they cannot seek appointment of an Advocate Commissioner for the purpose of collecting evidence in support of their case. The trial Court has rightly appreciated the legal position and dismissed the application. I do not find any error, illegality or infirmity in the impugned order passed by the trial Court.

8. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

27.07.2026

Index :Yes / No

Internet :Yes / No

NCC :Yes / No

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To

1.The III Additional Sub Court, Madurai.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SOUNTHAR, J.

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