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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 11.03.2025

CORAM:

THE HONOURABLE MS. JUSTICE P.T.ASHA

C.R.P. (PD) No.222 of 2025

and

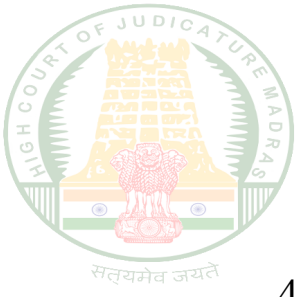
C.M.P.No.1480 of 2025

1. Selvaganapathi,
S/o. Vijayarangan,
Main Road,
Overchery, Adichapuram,
Mannargudi Taluk
Thiruvarur District – 614 717.

2. Udhayanila,
W/o. Selvaganapathi,
Main Road,
Overchery, Adichapuram,
Mannargudi Taluk
Thiruvarur District – 614 717.

Vijayarangan (died)

3. Jeevarathinam,
W/o. Vijayarangan,
No. 2/248, Main Road,
Overchery, Adichapuram,
Mannargudi Taluk
Thiruvarur District – 614 717.



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4. Amuthanila,
W/o. Rengarajan,
No.13-B, Ramanathan Street,
Mannargudi Town,
Thiruvarur District – 614 001.

5. Senthamilselvi,
W/o. Subash,
No.56-A, Kamarajar Street,
Thiruthuraipoondi Town,
Thiruvarur District – 613 713.

... Petitioners

Vs

Sridhar
S/o. Jayaraman,
No.39, Main Road,
Overchery, Adichapuram,
Mannargudi Taluk
Thiruvarur District – 614 717.

... Respondent

Cause title accepted vide court order dated 10/01/2025 made in
C.M.P 258/2025 in C.R.P SR NO. 10531 2025.

Prayer: Civil Revision Petition filed under Article 227 of the
Constitution of India praying to allow the above Civil Revision
Petition by setting aside the Fair and Decretal Order 17.10.2024
passed by the Learned District Munsif Judge, Mannargudi in I.A
No.355 of 2023 in O.S. No.57 of 2022.



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For Petitioners : Mr.S.Senthil

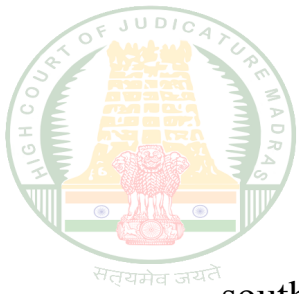
For Respondent : Served – No appearance

ORDER

Challenging the appointment of an Advocate Commissioner by the learned District Munsif, Mannargudi in I.A.No.355 of 2023 in O.S.No.57 of 2022, the defendants 1 and 2 and the legal heirs of the 3rd defendant are the revision petitioners before this Court.

2. The parties are referred to in the same ranking as before the trial Court. The brief facts are as follows:

The plaintiff had filed a suit for recovery of possession against the defendants 1 to 3 on the file of the District Munsif, Mannargudi in O.S.No.57 of 2022 in respect of the suit schedule property. It was the plaintiff's case that he had purchased the property from one Vedambal on 29.11.2006 under a registered Sale Deed and since then, he has been in possession and enjoyment of the same. The defendants 2 and 3 owned property on the eastern and



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southern side of the suit property. Taking advantage of this, on 15.09.2021, the defendants 2 and 3 had trespassed into his property which has been described in the “B” schedule and therefore, he has come forward with the suit in question.

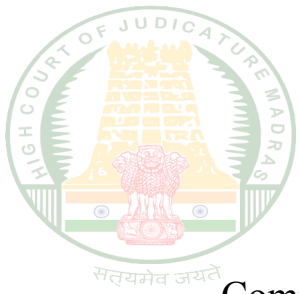
3. The 1st defendant has filed a written statement *inter-alia* denying the contention of the plaintiff that they have trespassed into the “B” schedule property which falls within their lands. They would submit that the lands comprised in Survey No.234/2 measuring an extent of 17.5 cents is situate on the eastern side of Item No.1 of the “A” schedule property which is comprised in S.No.234/1 and both the properties were originally comprised in S.No.234. The land measuring 17.5 cents in S.No.234/1 was purchased by the 3rd defendant from Vedhambal. In this land, the defendants are cultivating the coconut trees. During the UDR, S.No.234 was sub divided and while issuing the UDR patta in respect of S.No.234/2, it has been wrongly issued to an extent of



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0.05.50 hectares instead of 0.07.00 hectares that was purchased by the 3rd defendant in the year 1983. The remaining extent of 11.57 cents on the western side was owned by the vendor of the 3rd defendant (Vedhambal) and the patta was wrongly issued in favour of the son of Vedhambal, namely, Ramalingam. He was given patta in respect of 0.05.00 hectare instead of 0.04.60 hectares. It is their case that the land in S.No.235/15 measuring 6.75 cents in the 2nd item of the “A” schedule property was purchased by the 2nd defendant on 01.09.2020 from one Shanmugam. The land was subdivided as S.No.235/15B and patta was also issued in favour of the 2nd defendant to an extent of 0.02.70 hectares. Therefore, the 2nd defendant is the absolute owner of the Item 2 of the “B” schedule property. Therefore, they sought for dismissal of the suit.

4. After filing of the written statement, the plaintiff had filed I.A.No.355 of 2023 seeking appointment of an Advocate



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Commissioner to inspect the suit property and file a report and sketch.

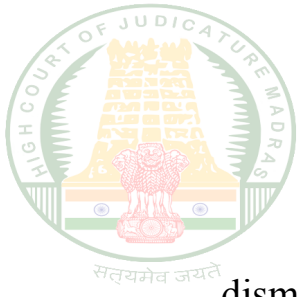
5. The defendants objected to the said application by contending that it was only a case of collecting evidence and the plaintiff, who has sought for recovery of possession, has to prove his title and possession only based on his documentary evidence and not on the Advocate Commissioner's report. However, the learned District Mufi, Mannargudi, by order dated 17.10.2024, allowed the application. Aggrieved by which, the petitioners /defendants are before this Court.

6. Heard the learned counsel for the petitioners. Though the respondent has been served, he has not entered appearance either in person or through counsel



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7. The plaintiff's contention is that the "B" schedule property forms part of the property purchased by him under the Sale Deed dated 29.11.2006 and this was encroached by the defendants. Admittedly, both Survey Nos.234/1 and 234/2 originally constituted a single Survey Number, namely, S.No.234. After the UDR, the survey numbers have been sub divided. The plaintiff would submit that the defendants have encroached into his property whereas the defendants would submit that the portion claimed by the plaintiff is part of their property. Both parties claim title under the deed executed by Vedhambal. It is the case of the defendants that during the UDR, they have been allotted a lessor extent. Therefore, there is a necessity for measuring the property of both parties in order to give an effective decision as to whether there is an encroachment or not and this can be achieved only with the assistance of an Advocate Commissioner. Therefore, the order passed by the learned District Munsif, Mannargudi appointing an Advocate Commissioner cannot be found fault with it. Accordingly, this Civil Revision Petition is



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dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.03.2025

Index : Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To,

The District Munsif, Mannargudi.



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P.T.ASHA, J.,

srn

C.R.P.PD.No.222 of 2025
and
C.M.P.No.1480 of 2025

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