



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 1543 of 2025

AND

CMP NO. 8989 OF 2025

1. THILAGAVATHI

W/o Jagadeesan,
Police Station Road,
Thirubuvanai, Puducherry.

2. PURUSHOTHAMAN

S/o Govindharajan,
Sakkarapani Nagar,
Thindivanam Taluk,
Villupuram District.

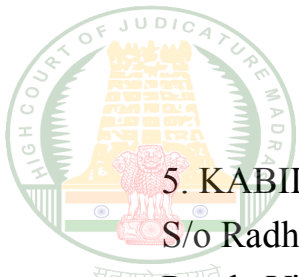
Paneerselvam (Died)

3. RAVEENDRAN

S/o Govindharajan,
Mariamman Kovil Street,
Kandamangalam Village,
Villupuram Taluk and District.

4. VALLATHARASAN

S/o Govintharajan,
Mariamman Kovil Street,
Kandamangalam Village,
Villupuram Taluk and District.



5. KABILAN

S/o Radhakrishnan,
Pondy Villupuram Main Road,
Kandamangalam Village,
Villupuram Taluk and District.

6. JAYAKUMAR

S/o Kumar,
Mosque Street,
Kandamangalam Village,
Villupuram Taluk and District.

7. PRAGALATHAN

S/o Raveendran,
Mariamman Kovil Street,
Kandamangalam Village,
Villupuram Taluk and District.

Petitioner(s)

Vs

1. Suseela @ Kasthuri
W/o Late Parthiban,
Residing at Mariamman Kovil Street,
Kandamangalam Village,
Villupuram Taluk and District.

2. Kalai Selvan @ Raja
S/o Late Parthiban,
Residing at Mariamman Kovil Street,
Kandamangalam Village, Villupuram
Taluk and District.

3. MADHAVAN

S/o Late Parthiban, Residing at



Mariamman Kovil Street,
Kandamangalam Village,
Villupuram Taluk and District.

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4.Silambu @ Silambu Selvan
S/o Late Parthiban,
Residing at Mariamman Kovil Street,
Kandamangalam Village,
Villupuram Taluk and District.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and final order of the made in IA.No.1 of 2024 in OS.No. 17 of 2024 on the file of the learned 1st Additional Subordinate Judge, Villupuram, dated 21.10.2023.

For Petitioners: Mr.M.R.Thangavel

For Respondents: No appearance

ORDER

This Civil Revision Petition has been filed to set aside the fair and final order made in IA.No.1 of 2024 in OS.No. 17 of 2024 on the file of the 1st Additional Subordinate Judge, Villupuram, dated 21.10.2023.

2. The petitioners are the plaintiffs in O.S.No.17 of 2024 on the file of the 1st Additional Subordinate Judge, Villupuram. The petitioners have preferred an



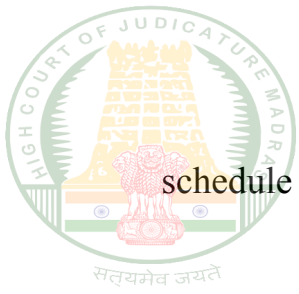
Interlocutory Application in I.A.No.1 of 2024 in O.S.No.17 of 2024, seeking for

appointment of an Advocate Commissioner to inspect the suit property and file a report. However, the trial Court has dismissed the application, only on the ground that it is duty of the plaintiffs/petitioners to prove their case and hence the appointment of Advocate Commissioner was not necessitated.

3. Despite the service of notice in the Civil Revision Petition, the respondents have not chosen to appear either in person or through counsel. The respondents are called and set ex parte.

4. Mr.M.R. Thangavel, learned counsel for the petitioners would submit that the petitioners have preferred the suit, seeking for declaration of title of the Suit 'B' Schedule Property and mandatory injunction for recovery of the possession of the property, which has been encroached upon by the defendants.

5. The learned counsel for the petitioners would take me through the plaint as well as the suit properties, which have been set out in the plaint



schedule in brief.

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6. The case of the respondents is that only in order to elucidate and to assist the Court, the Interlocutory Application was taken out, seeking appointment of an Advocate Commissioner. It is the first and foremost duty of the petitioners/plaintiffs to establish that they are the owners of the property, which is sought to be so declared.

7. Heard the learned counsel for the petitioners and perused the materials available on record.

8. Considering that the plaint allegation is of trespass, no serious prejudice would be caused to the respondents/defendants, if an Advocate Commissioner, with the assistance of local Taluk surveyor, measures the property and gives a report, which would be of invaluable assistance to the trial Court to adjudicate the issues arising and to be decided in the suit. The trial Court ought to have allowed the application for appointment of an Advocate



Commissioner to gain a first hand report of the position on ground, instead of dismissing the application.

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9. For the above reasons, I am inclined to allow the application viz., I.A.No.1 of 2024. Therefore, the order passed by the trial Court in I.A.No.1 of 2024 in O.S.No.17 of 2024 is set aside and the 1st Additional Subordinate Court, Villupuram, shall appoint an Advocate Commissioner to inspect the suit properties with the assistance of the local Taluk Surveyor and file a report, after giving notice to the respondents.

10. With the aforesaid terms, this Civil Revision Petition is allowed.

16-06-2025

jd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

The 1st Additional Subordinate Judge,
Villupuram.

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P.B.BALAJI J.
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