



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.1881 of 2025
and C.M.P.No.10864 of 2025

C.Alagesaboopathi

... Petitioner

Vs.

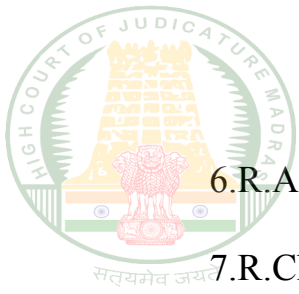
1.The District Collector and
Inspector of Panchayats,
Salem District,
Salem.

2.The Revenue Divisional Officer,
Salem Revenue Division,
Suramangalam,
Salem-636 005,
Salem District.

3.The Tahsildhar,
Salem West Taluk,
Suramangalam,
Salem-636 005,
Salem District.

4.N.Thirumoorthi

5.N.Shanmugam



6.R.Alagaseboopathi

7.R.Chandran

8.M.Sathishkumar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 20.03.2025 made in I.A.No.1 of 2025 in O.S.No.619 of 2023 passed by the learned V Additional District Munsif Court, Salem, Salem District, insofar as para 18(b) with regard to measurement of the pathway and allow this civil revision petition.

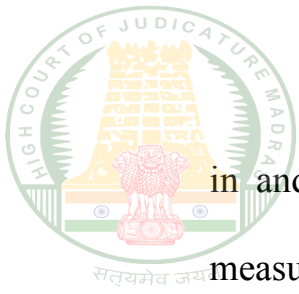
For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.N.Muthuvel
Government Advocate for R1 to R3
M.J.Pradeep for RR4 to R8

ORDER

Heard Mr.M.R.Jothimanian, learned counsel appearing for the petitioner, Mr.N.Muthuvel, learned Government Advocate appearing for the respondents 1 to 3 and Mr.J.Pradeep, the learned counsel appearing for the respondents 4 to 8.

2. The application for appointment of Advocate Commissioner was taken out by the plaintiff in I.A.No.1 of 2025 and it was entertained by the trial Court. However, the grievance of the revision petitioner/plaintiff is that



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in and by the impugned order, the learned trial Judge has restricted the measurement to the length and breadth of the pathway only for a distance of 100 feet on either side of the plaintiff's property. The petitioner has earlier moved this Court by way of W.P.No.29348 of 2023. The Hon'ble Division Bench of this Court, vide order dated 10.10.2023, giving liberty to the revision petitioner to approach the civil Court, disposed of the said writ petition. Pursuant to the same, the present suit in O.S.No.619 of 2023 has been filed for the relief of mandatory injunction against the official respondents, who are the defendants 1 to 3, to remove the encroachment and constructions made by the respondents 4 to 8 as detailed in the B Schedule suit property to the plaint and for also, a permanent injunction to restrain the respondents 4 to 8 from causing any obstructions and preventing the plaintiff to use the A Schedule suit property by grant of permanent injunction.

3. The learned counsel appearing for the petitioner states that though the trial Court has rightly proceeded to allow the Advocate Commissioner's application, without assigning any reasons whatsoever, the trial Court has restricted the scope of the Commissioner's warrant to only 100 feet on either

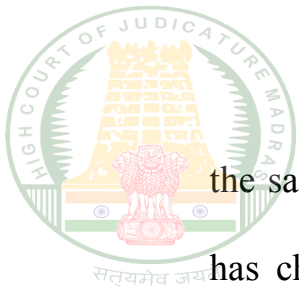


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side of the plaintiff's property. The learned counsel would further submit that no useful purpose would be served by such restriction placed on the Commissioner, while carrying out inspection since the specific contention of the learned counsel appearing for the revision petitioner/plaintiff is that the entire pathway is being accessed by the plaintiff to access his property which is at the fag end of the pathway which is comprised in Survey No.16/2 and the encroachments, according to the plaintiff, are in Survey No.16/3. Therefore, he would state that the entire stretch of the common pathway running to 490 feet has to be measured and reported to the Court by the Advocate Commissioner.

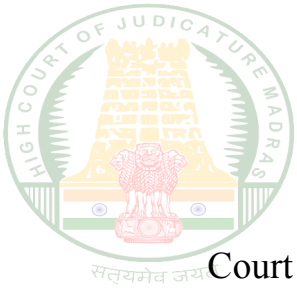
4. Per contra, the learned counsel appearing for the respondents 4 to 8 states that admittedly, Survey No.16/3 is a natham land and there is no necessity for the Advocate Commissioner to measure the natham lands which are in the occupation of the defendants 4 to 8 and they have also constructed houses.

5. Unfortunately, the defendants, despite suffering an order of appointment of the Advocate Commissioner, have not chosen to challenge



the same by filing a revision before this Court. It is only the plaintiff, who has chosen to file the present revision aggrieved by the order restricting measurement to 100 feet on either side of the plaintiff's property. Therefore, the contention of the respondent that there is no requirement to interfere with the order as the trial Court has rightly restricted the measurement by the Advocate Commissioner to a distance of 100 feet on either side of the plaintiff's property, cannot be countenanced.

6. I also find that the trial Court has not given any reasons whatsoever for such restriction of measurement by the Advocate Commissioner. As rightly contended by the learned counsel appearing for the revision petitioner, by measuring a distance of 100 feet alone is not going to serve any purpose. After having appointed an Advocate Commissioner, finding that it would be necessary for the Court to effectively decide the disputes between the parties, the trial Court ought to have ensured that the report obtained is proper and would fully serve the purpose. Even the plaint schedule clearly mentions that the length of the pathway to be running feet 490. The trial Court ought not to have restricted the measurement by the Commissioner only to a distance of 100 feet, that too without assigning any reasons whatsoever.



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7. In view of the above, I am inclined to modify the order of the trial Court by setting aside the direction (b) in the order dated 20.03.2025 which pertains to measurement of the pathway for a distance of 100 feet on either side of the plaintiff's property alone.

8. Accordingly, this Civil Revision Petition is partly allowed. There shall be no order as to costs. Connected miscellaneous petition is closed.

14.07.2025

Speaking Order/Non-speaking Order

Index : Yes / No

Neutral Citation : Yes/No

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To

The V Additional District Munsif Court, Salem.



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P.B. BALAJI,J.

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