



CRP.No.2513 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.B. BALAJI

CRP.No.2513 of 2025
and
CMP.No.14378 of 2025

1. J.Rafia Sultan

2. J.Mohamed Nazir

...Petitioners

Vs.

P.Sreedhar

...Respondent

Civil Revision Petition filed under Article 227 of Constitution of India, seeking to set aside the Fair order dated 29.05.2025 passed by the XII Assistant Judge/Vacation Judge, City Civil Court at Chennai in I.A.No.5 of 2025 in O.S.No.2864 of 2025 now on the file of the learned XXI Assistant Judge, City Civil Court, Chennai and consequently dismiss the said I.A. in the appointment of an Advocate Commissioner.

For Petitioners : Mr.C.P.Sivamohan

For Respondent : Mrs.Saranya



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ORDER

Heard Mr.C.P.Sivamohan, learned counsel for the petitioners and Mrs.Saranya, learned counsel for the respondent.

2. The defendants are the revision petitioners and aggrieved by the order of appointment of an Advocate Commissioner, pending the suit for mandatory injunction and other reliefs, have come up with the present revision.

3. The suit, admittedly, has been moved in the vacation court and the defendants have been served on 29.05.2025 with the application under Order 26 Rule 9 of CPC seeking appointment of an Advocate Commissioner. On the same day, the Court, despite the request of the learned counsel for the revision petitioners seeking time to file a counter in the said application, has proceeded to entertain the application and appointed an Advocate Commissioner. Challenging the said order of the trial court, the present revision has been filed.



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4. Learned counsel for the revision petitioners submits that the revision petitioners per se has no serious objection for an Advocate Commissioner coming and inspecting the suit property. However, his categorical submission is that since an allegation of encroachment is made by the respondent/plaintiff, it may not be sufficient if only the suit property is measured, but the adjoining properties should also be measured, for which, the revision petitioners are willing to give a memo of instructions to the Advocate Commissioner.

5. In the light of the above, I am not inclined to interfere with the impugned order of the trial court appointing an Advocate Commissioner. However, the said Advocate Commissioner shall also consider the memo of instructions which will be furnished by the revision petitioners and accordingly, measure the properties and submit a report, enabling the Court to come to a final decision on proper appreciation of all the relevant materials placed before the Court.



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6. The parties shall co-operate with the Advocate Commissioner and the Advocate Commissioner shall file a report within a period of six (6) weeks from the date of receipt of a copy of this order.

7. Accordingly, this Civil revision petition stands disposed of with the aforesaid directions. No costs. Consequently, the connected Miscellaneous petition is closed.

23.07.2025

skt

Index	: Yes / No
Speaking order	: Yes / No
NCC	: Yes / No

To

1. The XII Assistant Judge/Vacation Judge,
City Civil Court at Chennai.

2. The XXI Assistant Judge,
City Civil Court, Chennai.



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