



WEB COPY

CRP No. 3654 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-07-2025

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP No. 3654 of 2024 and C.M.P.No.19861 of 2024

Kumarasamy

..Petitioner

Vs

- 1.Karuppa Gounder
- 2.Palaniammal
- 3.Nataraj
- 4.Lakshmi
- 5.Sellammal
- 6.Poomathal
- 7.Manickam
- 8.Mahalakshmi
- 9.Kuttiappan

10.The Assistant Executive Engineer
TNEB, Vasantha Nagar, Ondipudur
Coimbatore.

11.The Assistant Engineer
TNEB, Pattanam, Sulur Taluk.

12.V.K.Nagarajan

13.P.Muthupalaniappan

..Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 11.06.2024 in I.A.No.3 of 2024 in O.S.No.548 of 2017 on the file of the District Munsif Court, Sulur.

For Petitioner :	Mr.S.Gunaseelan
For Respondents :	Ms.M.Adhisree - for RR and 9
	Mr.A.Parthasarathy - for RR 12 and 13
	Mr.S.T.Raja - for RR 10 and 11
	R5 - No appearance
	RR 2 to 4, 6 to 8 - Not ready in notice

**ORDER**

WEB COPY

Heard the learned counsel for the parties. An application filed in I.A.No.3 of 2024 filed by the plaintiff seeking direction to the Advocate Commissioner to revisit the property has been dismissed. Challenging the same, the plaintiff is before this Court.

2. Learned counsel for the petitioner would invite my attention to the report of the Advocate Commissioner in I.A.No.1358 of 2018, where the Commissioner has stated that the Taluk Surveyor was not able to trace the encroachment of an extent of 40 cents based on the description mentioned in the warrant and that in order to trace the encroachment, the entire S.F.No.306 would have to be surveyed. For this purpose, the petitioner has taken out an interlocutory application seeking direction for revisit by the Advocate Commissioner along with the surveyor. The said application was opposed by the respondents stating that the Advocate Commissioner's report was not then objected to by the plaintiff and further the Advocate Commissioner was also not cross examined and in such circumstances, there is no necessity to direct the Advocate Commissioner to revisit the property.

3. The Trial Court held that the suit is for recovery of possession of 40 cents within four specific boundaries and that the plaintiff has to prove the same by oral and documentary evidence; The trial Court also found that even from the written statement, it is noticed that S.F.No.306 has already been subdivided and the plaint



does not disclose the correct and full particulars of the property, which is alleged to have been incorrect by the defendants. The trial Court has also found that the burden being on the plaintiff to prove the encroachment, the Advocate Commissioner cannot be directed to revisit and measure the property, which is beyond the scope of the main relief. The trial Court has further held that it is not a suit for demarcation of boundaries, which would warrant the Advocate Commissioner to inspect the property and file a report after taking the assistance of a Surveyor.

4. I do not find any infirmity in the findings arrived by the trial Court. Having come to the Court with a specific case that the defendants have encroached into a specific extent of 40 cents in S.F.No.306, Nadupalayam, Peedampalli village within four specific boundaries, the plaintiff has to establish the plaintiff's entitlement to the said 40 cents in the first place and thereafter the factum of encroachment by the defendants. No doubt, an attempt was made by appointing an Advocate Commissioner in I.A.No.1358 of 2018. Even the Advocate Commissioner, despite having the assistance of the Taluk Surveyor has only reported to the Court that in view of the description of the property in the warrant, the Taluk Surveyor was not even able to identify the property. Therefore, in such circumstances, a direction to the Advocate Commissioner to revisit the property is certainly not permissible in law. In view of the manner in which the property has been described in the plaint, it is for the plaintiff to establish the factum of entitlement of 40 cents in S.F.No.306 as claimed in the plaint schedule within four specific boundaries. The plaintiff cannot



take the assistance of the Court to fish for evidence and identify the alleged encroachment of 40 cents in respect of which the suit has been filed.

WEB COPY

5. In the light of the above, I do not find any infirmity in the Trial Court dismissing the application in I.A.No. 3 of 2024 seeking direction to the Advocate Commissioner to revisit the property warranting interference by this Court. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.07.2025

Neutral Citation : Yes/No

KST

To

The District Munsif, Sulur



WEB COPY

CRP No. 3654 of 2



P.B.BALAJI, J.

KST

CRP No. 3654 of 2024

25-07-2025