



C.R.P.No.3576 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3576 of 2025
and C.M.P.No.19309 of 2025

1.S.Jayaraman

2.J.Gopinath

3.J.Parvatha

... Petitioners

VS.

1.P.Mohan

2.M.Arunkumar

3.Vengathur Grade-I Panchayat,
Rep by Block Development Officer,
Vengathur Panchayat Office,
Having office at No.20,
Alamelu Ammal Street,
Kannaiya nagar,
Manavalanagar Post,
Tiruvallur-602002

4.J.Chandrakumar

5.Kavitha

6.J.Thirunavukarasu

... Respondents

1/6



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records of the Lower Court and set aside the fair and decreetal order dated 16.04.2025 passed in I.A.No.11 of 2024 in O.S.No.115 of 2022 on the file of the Principal District Munsif at Tiruvallur.

For Petitioners : Mr.D.Bennington
for M/s.S.P.Meenakshi Sundharam

For R1 and R2 : Mr.S.R.Karthikeyan

For R3 : Mr.C.Sathish
Government Advocate

For R4 to R6 : No appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioners/defendants 1, 2, 4 and 6 seeking appointment of Advocate Commissioner to note down the physical features and to measure the property.

2. The respondents 1 and 2 filed a suit for declaration that they were entitled to right of way through Schedule-III of the suit property to reach



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Schedule-I and II of the schedule suit property. They also sought for a declaration that Settlement Deed dated 14.07.2021 and Mortgage Deed dated 06.06.2022 were null and void. The plaintiff also sought for permanent injunction restraining the defendants 2 to 6 from alienating or encumbering the Schedule-III of the suit property.

3. In the plaint, the plaintiff claimed easement of grant over the suit schedule-III. Pending suit, the petitioners herein filed instant application seeking appointment of Advocate Commissioner to measure the property and to note down the physical features. In the affidavit filed in support of the petition, it was stated by the petitioners that the plaintiffs are having alternative pathway, therefore, the Advocate Commissioner shall be appointed to locate the same. In the counter filed to petition for appointment of Advocate Commissioner, the respondents 1 and 2/plaintiffs clearly admitted that there is an alternative pathway in the western side of the property belonging to the 1st respondent in the application and the same was created temporarily with the consent of the owner just to have access to the property of the plaintiffs, since the defendants created obstacles in Schedule-III of the suit property.



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4. The Trial Court on consideration of the contention raised by both the parties was pleaded to dismiss the application. Aggrieved by the same, the petitioners have come before this Court.

5. The learned counsel appearing for the petitioners vehemently contended that the respondents 1 and 2/plaintiffs have got an alternative pathway to reach the property described in Schedule-I and II to the plaint and in order to locate the same, appointment of Advocate Commissioner is necessary.

6. A perusal of the plaint averment would indicate the plaintiffs claim only easement by grant and they are not claiming any easement by necessity. The easement by grant has to be proved only by producing necessary documents and existence of alternate pathway is not a ground to deny easement by grant. In the case on hand, even in the counter filed to the present application, the plaintiffs admitted existence of alternative pathway. In such circumstances, absolutely there is no necessity to appoint an Advocate Commissioner to note down the physical features and measure the property.



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7. The Trial Court rightly appreciated the pleadings of the parties and came to the conclusion that appointment of Advocate Commissioner was not at all warranted. I do not find any error in the impugned order passed by the Principal District Munsif, Tiruvallur in I.A.No.11 of 2024 in O.S.No.115 of 2022, dated 16.04.2025.

8. In the result, the civil revision petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

05.11.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Principal District Munsif,
Tiruvallur.



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S.SOUNTHAR, J.

dm

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