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C.R.P.(Pd)No.4760 of 2025 and C.M.P.No.24086 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

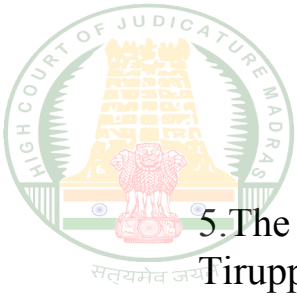
C.R.P.No.4760 of 2025
and C.M.P.No.24086 of 2025

1. Govindaraj
2. Saraswathy

...Petitioners

-VS-

1. Subramaniam
S/o. Palanisamy, 4/195,
Chettypalayam West,
Avanasipuram, Alagumalai,
Tiruppur.
- 2.The Superintendent Engineer
TANGEDCO, Tiruppur Electricity
Distribution Circle, Tiruppur.
- 3.The Executive Engineer
Tiruppur Electricity Distribution
Circle TANGEDCO, Palladam,
Tiruppur.
- 4.The Assistant Executive Engineer
Tiruppur Electricity Distribution
Circle TANGEDCO, Palladam,
Tiruppur.



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5.The Assistant Engineer
Tiruppur Electricity Distribution
Circle TANGEDCO, Palladam,
Tiruppur

Respondents

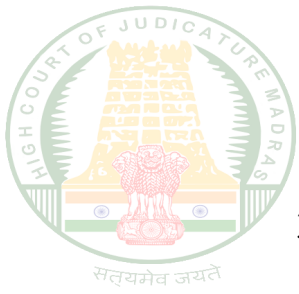
Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 04.09.2025 passed in IA No.3 of 2025 in OS No.236 of 2012 on the file of the District Munsif, Palladam.

For Petitioners : Mr.R.Radha Pandian

ORDER

The unsuccessful defendants 2 and 3 have preferred the present civil revision petition.

2. The suit in O.S.No.236 of 2012 is filed for permanent injunction restraining the defendants or any other persons acting on their behalf from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property.



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3. The defendants have filed their written statement. Necessary issues were framed. On the side of the plaintiff, P.W.1 was examined. The 3rd defendant was examined as D.W1 and documents were marked. The defendants' side evidence was closed and the case is posted for arguments. At this stage, defendants 2 and 3 have filed an application in I.A.No.3 of 2025 in I.A.No.505 of 2017 in O.S.No.236 of 2012 under Order 26 Rule 9 and Section 151 C.P,C seeking a direction to the Advocate Commissioner to revisit the suit schedule property once again along with the Taluk Surveyor and file a report.

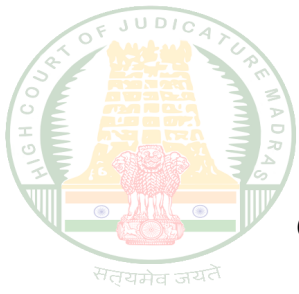
4. Upon hearing both sides, the Court below, vide order dated 04.09.2025, dismissed the application on the ground that an Advocate Commissioner had already been appointed in the year 2017 as per the orders passed in I.A.No.505 of 2017 dated 24.08.2017. Pursuant to the said appointment, the Advocate Commissioner visited the suit schedule property and filed his report. The reasons stated by the revision petitioners / defendants to revisit the suit property were not found



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acceptable after a lapse of seven years. Aggrieved by the said order, defendants 2 and 3 have filed this revision.

5. The learned counsel for the revision petitioners would submit that the Court below failed to consider that the Advocate Commissioner visited and measured the property nearly five years after the order dated 24.08.2017. He would also submit that the Taluk Surveyor issued his report only on 11.09.2025 though the measurements were taken on 12.03.2022 and 10.06.2023 respectively. The revision petitioners / defendants had objected to the measurement recorded by the Advocate Commissioner regarding the width of the road which was recorded as 16 feet instead of 20 feet as mentioned in the suit schedule. However, the Advocate Commissioner failed to note down the objections raised by the revision petitioners and informed that the same would be reflected in the report. The Court below failed to appreciate the fact that the 2nd defendant in her proof affidavit has clearly stated that the width of the road is 16 feet, which was not taken into consideration by the trial Court.



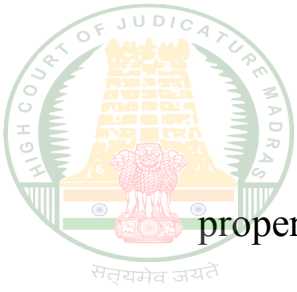
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6. Heard the learned counsel for the revisio petitioners/defendants

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2 and 3 and perused the materials available on record.

7. It is not in dispute that the evidence on both sides has been completed and the matter is now posted for arguments. At this stage, the present application has been filed seeking re-issuance of a warrant to the Advocate Commissioner to ascertain whether the width of the road is 16 feet or 20 feet. In a suit for permanent injunction, it may not be necessary to use the services of the Advocate Commissioner to gather evidence. However, in the present case, it was at the instance of the revision petitioners that an application in I.A.No.505 of 2017 was filed seeking appointment of an Advocate Commissioner. Accordingly, the Court below vide order dated 24.08.2017, appointed one Vijayakumar was appointed as Advocate Commissioner to note down the physical features in and around the suit properties and to measure the same with the assistance of the Taluk Surveyor. The Advocate Commissioner was also directed to give prior notice to both parties before visiting the suit



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property. Thereafter, the Advocate Commissioner has filed his report on

18.09.2024. The trial Court granted 15 days' time to both parties to file

their objections to the report. However, the revision

petitioners/defendants have not chosen to file their objections. The

matter is now posted for arguments on 24.10.2025. It is well settled that

the burden of proof lies upon the plaintiff to establish his case. In the

said circumstances, there is no necessity to reissue a warrant to the

Advocate Commissioner to visit the suit property once again. Hence,

the trial Court has rightly dismissed the application. I see no reason to

interfere with the same. Accordingly, the civil revision petition is

dismissed. Liberty is granted to the revision petitioners/defendants to

make their valid submissions before the trial Court at the time of

arguments. No costs. Consequently, connected miscellaneous petition

is closed.

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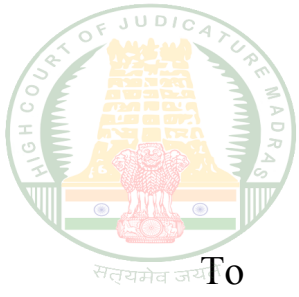
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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

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The District Munsif, Palladam.



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M. JOTHIRAMAN, J.

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