



WEB COPY

CRP No.5136 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 5136 of 2025 and
CMP No.25876 of 2025**

1. P.Chidambaram

S/o. Paduthapillai, 2/46, Irulapatti,
A.Pallipatti Post, Pappireddipatti
Village, Dharmapuri District.

2. Devaki

W/o. P.Chidambaran 2/46, Irulapatti,
A.Pallipatti Post, Pappireddipatti
Village, Dharmapuri District.

3. Shanmugapriya

D/o. P.Chidambaran 2/46, Irulapatti,
A.Pallipatti Post, Pappireddipatti
Village, Dharmapuri District.

Petitioner(s)

Vs

1. THIRUVENKADAM

S/o. KaveriChettiar, 365/1,
Thiru.Vi.Ka.Nagar, Varnatheertham
Extension, Harur Town and Taluk,
Dharmapuri District.



2.Kanchana

W/o. Thiruvenkadam 365/1,
Thiru.Vi.Ka.Nagar, Varnatheertham
Extension, Harur Town and Taluk,
Dharmapuri District.

3.Karthik

S/o. Thiruvenkadam 365/1,
Thiru.Vi.Ka.Nagar, Varnatheertham
Extension, Harur Town and Taluk,
Dharmapuri District.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 03.09.2025 made in IA No. 1 of 2025 in OS No. 33 of 2025 on the file of the LD. Sub Court, Pappireddipatti by allowing the civil revision petition.

For Petitioner(s): Mr. N. Manoharan

ORDER

This Civil Revision Petition is filed, challenging the order passed by the Court below, allowing the application filed by the respondents seeking appointment of Advocate Commissioner to measure the property with the help of Surveyor and file a report.

2. The respondents herein, filed a suit for declaration of title and recovery of possession in respect of 4 cents in S.No.9/1 of Mookkirettipatti Village,



Pappirettipatti Circle, Dharmapuri District. According to them, they purchased the subject property along with the larger extent from one Karpagam under a sale deed dated 12.09.2023. The said Karpagam had sold total extent of land measuring to an extent of 70 cents in S.No.9/1 and there was a cinema theatre in the said property. The second petitioner herein, filed a suit in O.S.No.9 of 2024 for partition seeking 30% share in the income from Theatre and also in the land situated in the subject survey number. In the said suit, final decree was passed allotting 30% share in favour of the 2nd petitioner herein. An advocate commissioner was appointed in the said suit for partition and divided the entire property into 10 parts. The parts 1 to 7, as shown in the advocate commissioner's plan, were allotted to the respondent's vendor Karpagam and parts 8 to 10 were allotted to the 2nd petitioner herein. After purchasing the property allotted to the said Karpagam, the respondents herein filed a suit for declaration of title in respect of 4 cents, on the ground that the petitioners herein encroached a portion of 4 cents of the property, purchased by them from Karpagam. The said suit was resisted by the petitioners herein, denying the alleged encroachment in the property, purchased by the respondents.

3. In order to earmark four cents of property allegedly encroached by the defendants/ petitioners herein, the respondents filed the present application, seeking appointment of Advocate Commissioner, with the help of surveyor. The said application was opposed by petitioners by filing counter, stating that the



object of the application is to collect evidence. The Trial Court, after taking into consideration the pleadings of the respective parties and the stand taken by the petitioners herein, allowed the petition. Aggrieved by the same, the present civil revision petition has been filed.

4. The learned counsel for the petitioners would submit that the present application has been filed by the respondents, just to collect evidence and therefore, the order passed by the Trial Court, appointing an Advocate Commissioner to measure the property, with the help of surveyor is liable to be set aside.

5. A perusal of the pleadings of the parties would indicate that the petitioners herein, in their written statement, had taken a stand that they have not encroached any portion of the property, purchased by the plaintiffs and the said plea raised by the plaintiffs was only a concocted story. Therefore, there is a dispute in this case with regard to the alleged encroachment. The plaintiffs contends that the defendants encroached a portion of the property, purchased by them. The defendants, in their written statement, categorically denied the alleged encroachment. In such circumstances, if Advocate Commissioner is appointed to measure the suit property with the help of surveyor and note down the physical features, the report filed by the Advocate Commissioner will certainly enable the court to come to the conclusion with regard to the disputed



encroachment. Certainly, the Advocate Commissioner's report will be helpful to decide the controversy in the lis. Hence, there is no illegality or irregularity in the order passed by the Trial Court.

6. Accordingly, this civil revision petition is dismissed, confirming the impugned order passed by the Court below. Connected miscellaneous petition is closed. There shall be no order as to costs.

28-10-2025

Index: Yes/No

Internet: Yes

Neutral Citation: Yes/No

MST

To

1. The Subordinate Judge,
Subordinate Court, Pappireddipatti.



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S.SOUNTHAR J.

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