



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

CRP No. 5308 of 2025 and

CMP No.26732 of 2025

1. Sotima Bibi

W/o. John Sahib, Fort in Muslim Street,
Vandavasi Town and Taluk,
Tiruvannamalai District.

2. Yacoob

S/o. John Sahib, Fort in Muslim Street,
Vandavasi Town and Taluk,
Tiruvannamalai District.

3. Shabuu Alias Shamsath

D/o. Ali John Sahib, Fort in Muslim
Street, Vandavasi Town and Taluk,
Tiruvannamalai District.

Petitioner(s)

Vs

1. Abdul Munaf

S/o. Syed Johny Sahib, No. 6/54,
Fort in Muslim Street,
Vandavasi Town and Taluk,
Tiruvannamalai District.



2.The State of Tamil Nadu
Rep. by District Collector,
Thiruvannamalai District.

3.The Sub Collector
Vandavasi Town and Taluk,
Tiruvannamalai District.

4.The Tashildar
Vandavasi Town and Taluk,
Tiruvannamalai District.

5.The Commissioner
Vandavasi Municipality, Vandavasi
Town and Taluk,
Tiruvannamalai District.

Respondent(s)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair order dated 15.7.2025 made in IA No. 02 of 2025 in OS No. 89 of 2013 passed by the Learned District Munsif Court, Vandavasi.

For Petitioner(s): Sathiyaraj E. M.Dhanalakshmi
S.Selvin Niha

For Respondent(s): Mr.C.Sathish, G.A For R2 To R5

ORDER

This civil revision petition is filed, challenging the order passed by the learned Trial Judge, allowing the application filed by the first respondent/ plaintiff seeking appointment of Advocate Commissioner to measure the



property with the help of Taluk Suveyor and file a report.

2. The first respondent/plaintiff filed a suit in O.S.No.89 of 2013 seeking mandatory injunction against the petitioners/defendants 1 to 3 and others. It is the case of the plaintiff that he owns property in A schedule property and B schedule property is a street promboke. The petitioners had put up construction in the B schedule property and caused hindrance to the respondent to have free access to A schedule property. Therefore, suit was filed by him seeking permanent injunction restraining the Petitioners/ defendants 1 to 3 from interfering with his peaceful possession and enjoyment of the suit property and also the official respondents/defendants 4 to 7 from granting patta to the petitioners/defendants 1 to 3 in respect of B schedule property.

3. Pending suit, the instant application has been filed by the first respondent/plaintiff seeking appointment of Advocate Commissioner to measure the suit A and B schedule properties with the help of Taluk Surveyor and to file a report. In the affidavit filed in support of the application, it was averred by the first respondent/plaintiff that in order to prove his case that the petitioners herein put up construction in the B schedule property so as to affect his access to A schedule property, appointment of Advocate Commissioner was absolutely necessary.

4. The petitioners herein/defendants 1 to 3 filed counter affidavit denying



the averment made in the affidavit by the plaintiff that the construction in suit B schedule property was made by them, so as to affect the right of access of the plaintiff to A schedule property. In view of the controversy in the pleadings with regard to the alleged construction and hindrance to access of right by the plaintiff, the Trial Court came to the conclusion that appointment of Advocate Commissioner is necessary to measure the properties with the help of Taluk surveyor and allowed the petition. Aggrieved by the same, the petitioners have come before this court.

5. The learned counsel for the petitioners vehemently contended that the first respondent/plaintiff as PW1 admitted in his evidence that encroachment in the suit B schedule property was already removed by the officials and hence there is no necessary for appointment of Advocate Commissioner.

6. A perusal of the evidence of PW1 would indicate that during cross examination, he admitted that a portion of the encroachment in the suit property was removed and the remaining encroachment need to be removed. In such circumstances, whether there is an encroachment in the B Schedule property as alleged by the first respondent/plaintiff or not? is a matter to be decided by the Trial Court. The report of the Advocate Commissioner with due measurement of the suit properties and physical features will certainly help the court to decide the main controversy involved in the suit. Therefore, this court does not find



any irregularity or illegality in the order passed by the court below.

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7. The Advocate commissioner is directed to measure the suit property with the help of Taluk Surveyor, as ordered by the Trial Court. In addition to that, he is also directed to note down the physical features of the property and file a report.

8. With the above clarification, this civil revision petition is dismissed, confirming the order passed by the learned District Munsif, Vandavasi in I.A.No.2 of 2025 in O.S.No.89 of 2013, dated 15.07.2025. There shall be no order as to costs. Connected miscellaneous petition is closed.

05-11-2025

Internet: yes

Index: Yes/No

Neutral citation: Yes/No

MST

To

The District Munsif, Vandavasi.



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CRP No.5308 of 2



S.SOUNTHAR J.

MST

CRP No.5308 of 2025

05-11-2025