



WEB COPY



CRP.No.5687 and 5689 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.Nos.5687 and 5689 of 2025 and
CMP.No.28394 of 2025

1.Chidambaram

2. Palanisamy

... Petitioners in both CRP's

Vs.

1.Shanmugam

2. Ganesan

3.Paramasivam

...Respondents in both CRP's

PRAYER in CRP.Nos.5687 of 2025:Civil Revision Petition filed Article 227 of Constitution of India, praying to allow the above CRP by setting aside the Fair and Decretal Order dated 16.07.2025 passed in IA NO. 13 of 2025 in OS No. 79 of 2019 on the file of the District Munsiff Court, Kangeyam and thus render justice.

1/7



CRP.No.5687 and 5689 of 2025

PRAYER in CRP.Nos.5689 of 2025:Civil Revision Petition filed Article 227

of Constitution of India, praying to allow the above CRP by setting aside the Fair and Decretal Order dated 16.07.2025 passed in IA NO. 12 of 2025 in OS No. 79 of 2019 on the file of the District Munsiff Court, Kangeyam and thus render justice.

For Petitioners	: M/s.M.Vishali
in both CRP's	for Mr.K.Govi Ganesan

COMMON ORDER

These Civil Revisions Petitions are filed challenging the order passed by the trial court, dismissing the applications filed by the petitioners/ plaintiffs seeking to reopen the case and to appoint an Advocate Commissioner.

2. The petitioners herein/plaintiffs filed a suit for partition against the respondents/defendants seeking 2/6th share in the suit property. The recording of evidence was already over and the suit was posted for arguments. At this stage, the petitioners herein filed instant applications seeking to reopen the case and to appoint an Advocate Commissioner to measure the suit property



CRP.No.5687 and 5689 of 2025

with the help of Taluk Surveyor. These two applications were dismissed by the trial court. Aggrieved by the same, the petitioners have come before this court.

3. The learned counsel for the petitioners submitted that the petitioners instituted a suit for partition in respect of 0.08 cents of land together with house property. Though the total extent of the suit property as per the document dated 06.03.1961 was 0.08 cents, in the revenue patta lesser extent was mentioned. Therefore, in order to ascertain the exact extent of the suit property available, appointment of Advocate Commissioner is absolutely necessary. The learned counsel further submitted that the 1st defendant/1st respondent herein in the suit had put up terraced building in the suit property and the measurement of the building put up in the suit property is also required to allot equal shares to the parties.

4. The suit has been filed by the petitioners seeking partition of 2/6th share. The trial was already over and the suit was posted for arguments. At this stage, the Court is only concerned with the entitlement of the petitioners to



claim share in the suit property. In the preliminary decree, the trial court will only declare the shares of the respective parties and the mode of allotment of shares will be done only in the final decree proceedings. What is the exact extent available on ground can be determined at the time of final decree proceedings and therefore, to find out the exact extent available on ground, the Advocate Commissioner need not be appointed prior to passing of final decree.

5. In the partition suits, the Court will appoint Advocate Commissioner during final decree proceedings and at that point of time, he will measure the property and find out extent available on ground.

6. As far as construction of terraced building by the 1st respondent in the suit property is concerned, the measurement of the building on ground can be done at the time of final decree proceedings. Whether the building was put up by the respondent pending suit or not is a matter for evidence which should be proved by the petitioners by leading evidence. Advocate commissioner, by inspecting the property, cannot find out whether the building was put up by the



CRP.No.5687 and 5689 of 2025

1st defendant/1st respondent pending suit or not. Therefore, the reasons given

by the petitioners for seeking appointment of Advocate Commissioner is not

convincing and therefore, the trial court is absolutely right in dismissing the

applications. I do not find any error in the impugned orders passed by the Trial

Court. Accordingly, these Civil Revision Petitions are dismissed.

Consequently, the Connected Miscellaneous petition is closed. No costs.

17.11.2025

Index : Yes / No

Internet : Yes / No

nr

To

The District Munsif Court, Kangeyam



WEB COPY



CRP.No.5687 and 5689 of 2025

S.SOUNTHAR, J.

nr

CRP.Nos.5687 and 5689 of 2025 and
CMP.No.28394 of 2025



WEB COPY



CRP.No.5687 and 5689 of 2025

17.11.2025