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CRP.No.5683 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5683 of 2025 and

CMP.No.28388 of 2025

K.Srinivasan

... Petitioner

Vs.

1.R.Selvaraj

2.R.Masilamani

3.R.Nithyanandham

4. R.Arivanantham

...Respondents

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 20.8.2025 in IA.NO. 3/2024 in OS.No. 284/2024 on the file of the IV Additional District Munsif Court, Salem.

For Petitioners

: Mr.K.Selvaraj



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court appointing an Advocate Commissioner to note down the physical features.

2. The respondents herein filed a suit against the petitioner seeking declaration of title in respect of portion described as “MNOP” in the plaint plan and for mandatory injunction to remove the construction put up by the petitioner in the said portion. The respondents also sought for permanent injunction. The suit was filed by the respondents based on the Advocate Commissioner's report filed in an earlier suit in OS.No. 119 of 2021 on the file



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of Principal District Munsif Court, Salem, which was later transferred to III

Additional District Judge, Salem and re-numbered as OS.No.597 of 2023. The

said suit was filed by the 4th respondent against one Manickam wherein the report was filed by the advocate commissioner mentioning encroachment allegedly made by the petitioner. Based on the said Advocate Commissioner's report, the respondents said to have acquired knowledge about the encroachment made by the petitioner and the present suit was laid.

3. Pending suit, the respondents filed instant application seeking appointment of Advocate Commissioner to note down the physical features and demarcate the suit property with the help of qualified Surveyor. In the affidavit filed in support of the said petition, it was stated by the respondents that the petitioner herein was making hurried attempt to change the physical features of the suit property by putting up a compound wall annexing the suit property. The said averment made by the respondents has not been denied by



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the petitioner in the counter affidavit. Further, the present suit was laid based on the Advocate Commissioner's report filed in the suit instituted by the 4th respondent against one Manickam to which the present petitioner was not a party. Therefore, if the respondents solely made their claim based on earlier report filed in another suit, there is a possibility of petitioner taking a stand that report filed in another suit to which he was not a party is not binding. In such circumstances, it is better to measure the suit property and note down the physical features in the present suit after giving proper opportunity to the petitioner. Further, in view of the specific allegation made by the respondents in the affidavit that the petitioner has been making hurried attempt to alter the physical features, the appointment of Advocate Commissioner is absolutely necessary. I do not find any material error in the impugned order passed by the Trial Court. Accordingly, the Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.



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Index : Yes / No

Internet : Yes / No

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To

The IV Additional District Munsif Court, Salem.



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