



C.R.P.No.6241 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 05.12.2025**

CORAM:

**THE HONOURABLE MR. JUSTICE S.SOUNTHAR**

**C.R.P.No.6241 of 2025**  
**and**  
**C.M.P.No.30855 of 2025**

Mr.A.Christus Frank Antony

...Petitioner

-Vs-

Mrs.V.P.Lucy

...Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 06.11.2025, passed by the learned VII Assistant City Civil Court, Chennai, in I.A.No.7 of 2025 in O.S.No.6612 of 2019 and pass such further orders.

For Petitioner : Mr.D.Ferdinand  
for M/s.BFS Legal

**ORDER**

This civil revision petition is filed challenging the order passed by the Trial Court closing the application filed by the petitioner seeking appointment of an Advocate Commissioner, overlooking the request made by the petitioner seeking re-inspection of the property.



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2. The petitioner herein filed the suit for bare injunction restraining the respondent from interfering with the petitioner's peaceful possession and enjoyment of the suit-scheduled property and also from encroaching and putting up construction in the suit property.

3. Pending suit, the petitioner herein filed an application for appointment of an Advocate Commissioner to note down the physical features and also to measure the property with the help of a surveyor. The said application was allowed, and the Advocate Commissioner inspected the property with the help of a surveyor, measured the property, and filed his report.

4. The petitioner filed his objections to the Advocate Commissioner's report and, based on those objections, sought re-issuance of warrant for the Advocate Commissioner for re-inspection. Overlooking the objections made by the petitioner, the Trial Court closed the application. Aggrieved by the said order, the petitioner has come before this Court.



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5. Learned counsel for the petitioner would submit that the Advocate Commissioner, in his report, mentioned the extent of encroachment made in the suit property; however, he has not specified whether the encroachment was made by the defendant. It is further submitted that the petitioner has certain grievances with regard to the area of encroachment earmarked by the Advocate Commissioner.

6. The suit is for bare injunction. The petitioner has to sustain his prayer by letting in evidence to establish his lawful possession over the suit property. It is settled law that an Advocate Commissioner cannot give any finding with regard to the possession of the parties.

7. The submission made by the learned counsel for the petitioner that the encroached portion has not been properly identified by the Advocate Commissioner cannot be accepted in the light of the prayer sought for in the suit. The petitioner has not filed the suit seeking removal of encroachment or recovery of possession. In the absence of a prayer for removal of encroachment or recovery of possession, the question of determining the encroached portion would not arise.



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8. The petitioner is not entitled to collect evidence to find out whether there is any encroachment in the suit property or not. The petitioner approached the Court with a prayer for permanent injunction on the assertion that he has been in lawful possession and enjoyment of the suit property. He has to prove the said plea independently by oral and documentary evidence. It is not the case of the petitioner that the respondent or some other third party has encroached any portion of the suit property and that the exact extent of encroachment is not ascertainable.

9. Having regard to the prayer made by the petitioner in the main suit, I feel that the request made by the petitioner for re-issuance of warrant to the Advocate Commissioner to exactly earmark the encroached portion in the suit property cannot be granted.

10. I do not find any error in the impugned order passed by the Trial Court closing the petition for appointment of an Advocate Commissioner, as the petitioner failed to make out any case for re-inspection of the suit property by the Advocate Commissioner.



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11. Accordingly, this civil revision petition stands dismissed. There shall be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

**05.12.2025**

cda

To

The VII Assistant City Civil Court,  
Chennai.



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**S.SOUNTHAR, J.**

cda

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