



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 26.06.2025

WEB COPY

CORAM

**THE HON'BLE MR. JUSTICE M.DHANDAPANI**

**C.R.P.(PD)(MD)No.1765 of 2025**

**and**

**C.M.P.(MD).No.9615 of 2025**

1.Poochi @ Periyakaruppa Konar

2.Udappu

3.Mahendran

...Petitioners

Vs.

1.Karuppayee

2.Karuthangi

3.Savithri

4.Kavitha

5.Vignesh

...Respondents

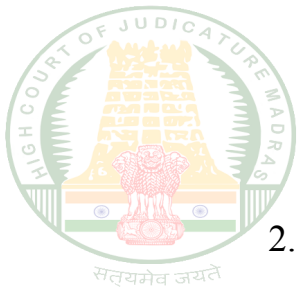
PRAYER: Civil Revision Petition is filed under Section 115 CPC to set aside the fair and decreetal order passed in I.A.No.594 of 2024 in O.S.No.53 of 2019 dated 03.02.2025 on the file of the Sub Court, Usilampatti.

For Petitioners : Mr.S.Sankarasubramanian

\* \* \* \* \*

**ORDER**

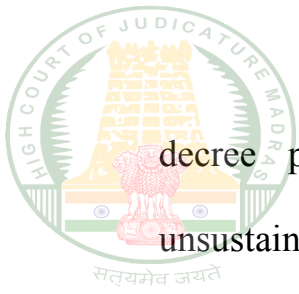
This Civil Revision Petition has been filed seeking orders to set aside the fair and decreetal order dated 03.02.2025 passed in I.A.No.594 of 2024 in O.S.No.53 of 2019 on the file of the Sub Court, Usilampatti.



2. The first respondent herein filed a suit in O.S.No.53 of 2019 on the file of the Sub Court, Usilampatti, against the petitioners and respondent Nos.2 to 5, seeking partition and for a declaration that the settlement deed dated 28.05.2014 is null and void. The trial Court, by a judgment dated 08.04.2024, decreed the suit in favour of the first respondent. Aggrieved by the said judgment and decree, the petitioners herein preferred an appeal before the learned Principal District Judge, Madurai, and the same is pending. Subsequently, the first respondent filed an interlocutory application in I.A.No. 594 of 2024 under Order XXVI Rule 13 read with Section 151 of CPC, seeking to pass a final decree. By an order dated 03.02.2025, the trial Court appointed an Advocate Commissioner to determine the metes and bounds of the property.

3. Since no adverse orders are going to be passed against the respondents, notice to the respondents is dispensed with.

4. The learned counsel for the petitioners submitted that the first respondent, who is the sister of the first petitioner and aunt of petitioner Nos.2 and 3, has initiated final decree proceedings while the appeal against the preliminary decree is still pending before the appellate Court. It is further submitted that the petitioners are in the process of filing an application to condone the delay in filing the appeal. Therefore, the continuation of final



decree proceedings during the pendency of appeal is premature and unsustainable.

WEB COPY

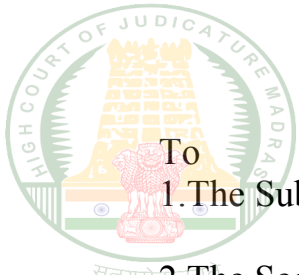
5. It is an admitted fact that the preliminary decree has not been stayed by the appellate Court. In the absence of any stay or interim order restraining the execution of the preliminary decree, the trial Court is well within its jurisdiction to proceed with the final decree proceedings. The law is well settled that mere filing of an appeal does not operate as a stay of the decree appealed against. Unless and until there is a specific stay granted by the appellate Court, the trial Court is competent to proceed with steps to pass the final decree in terms of the preliminary decree.

6. In view of the above discussion, this Court finds no infirmity or illegality in the order passed by the trial Court appointing an Advocate Commissioner to determine the metes and bounds of the property.

7. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

**26.06.2025**

Internet: Yes/No  
Index: Yes/No  
TSG



C.R.P.(PD)(MD)No.1765 of 2014



To

1.The Sub Judge, Usilampatti.

2.The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



WEB COPY

C.R.P.(PD)(MD)No.1765 of 2025



**M.DHANDAPANI, J.**

TSG

**C.R.P.(PD)(MD)No.1765 of 2025**

**26.06.2025**