



C.R.P(MD)No.2486 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 11.09.2025

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

C.R.P(MD)No.2486 of 2025

and

C.M.P(MD)No.14896 of 2025

1.M.Surendran
2.S.Manoharan

... Petitioners/Respondents/
Defendants

Vs.

C.Sree Chellakutty Chandra

...Respondent/Petitioner
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order in I.A.No.6 of 2024 in O.S.78 of 2021 passed by the District Munsif Court, Eraniel dated 19.06.2025 and set aside the same by allowing the Civil Revision petition.

For Petitioners : Mr.A.Balakrishnan

ORDER

The instant civil revision petition has been filed to set aside the fair and decreetal order in I.A.No.6 of 2024 in O.S.78 of 2021 passed by the District Munsif Court, Eraniel dated 19.06.2025.



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WEB COPY 2. The learned counsel for the petitioners submit that the petitioners are the defendants in the suit filed by the respondent, seeking for declaration that the sale deed executed in favour of the first petitioner/first defendant is invalid and not binding on the respondent. To decide the said issue, it would be proper to appoint an Advocate Commissioner to measure the properties of both the petitioner and the respondents with the help of a Surveyor, who can also find out as to whether the petitioners are made any encroachments in respect of the A Schedule property as claimed by the respondent.

3. He would submit that the Trial Court without considering the same had dismissed the application by holding it as unnecessary. Apart from that it is the burden of the respondent to prove his case through proper documentary evidence and that an Advocate Commissioner cannot be appointed for collecting evidence. He would submit that such finding and reasoning would affect the interest of the respective parties and therefore, he would submit that the appointment of Advocate Commissioner would give quietus to the issue.



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4. I have considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

5. It is admitted that the suit has been filed for a declaration that the sale deed executed in favour of the first petitioner/first defendant is invalid and not binding on the respondent. It is not the claim of the respondent in his plaint that the suit schedule property had been encroached by the petitioners/defendants nor had sought for recovery of possession from the suit schedule property. When that be a case, the statement of the petitioners that whether the petitioners in encroachment of the A Schedule property does not at all arise.

6. In such view of the matter, I do not find any reason warranting interference with the impugned order passed by the Trial Court.

7. In fine, this civil revision petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

11.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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WEB COPY To

- 1.The District Munsif Court,
Eraniel.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.KUMARESH BABU,J.

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