



C.R.P.No.252 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.252 of 2026
and
C.M.P.No.1188 of 2026

1.Nagarajan

2.Abdul Salam

3.Nabi

4.Iroon Bheevi

... Petitioners

vs.

1.Palanivel

2.Uma

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the above Civil Revision Petition by setting aside the Fair and Decretal order dated 12.09.2025 passed by the learned District Munsif Judge, Thiruthuraipoondi in I.A.No.03 of 2025 in O.S.No.101 of 2014.

For Petitioners : Mr.Senthil S



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the District Munsif Court, Thiruthuraipoondi in I.A.No.03 of 2025 in O.S.No.101 of 2014, dated 12.09.2025 allowing the application filed by the respondents seeking appointment of Advocate Commissioner to measure the suit property with the help of Surveyor and to file a report.

2. The respondents herein initially filed a suit for bare injunction against the petitioners. Subsequently, by way of amendment, the respondents introduced the prayer for mandatory injunction to remove the construction put up by the petitioners in the Suit 2nd Item. It is the specific case of the respondents that pending suit, the petitioners committed trespass into the Suit 2nd Item and had put up constructions. After allowing of the amendment application and inclusion of prayer for mandatory injunction, the present application has been filed seeking appointment of Advocate Commissioner to measure the suit property with the help of Surveyor and file a report. The said application was allowed by the Trial Court and aggrieved by the same, the petitioners/defendants have come before this Court.



3. The learned counsel appearing for the petitioners would submit that the main relief sought for in the suit is bare injunction and therefore, appointment of Advocate Commissioner is not necessary, as possession of the parties cannot be assessed by the Advocate Commissioner.

4. As narrated above, originally the suit was filed for bare injunction and subsequently, by way of amendment, the respondent also sought the relief of mandatory injunction to remove the constructions allegedly put up by the petitioners in the suit 2nd item of the property. In a suit for mandatory injunction, the offending construction shall be properly measured and earmarked. Otherwise, at the time of execution there will be some difficulty.

5. In the light of the prayer for mandatory injunction sought for by the respondents, this Court feels the appointment of Advocate Commissioner is absolutely necessary to earmark the exact measurement of the constructions allegedly put up by the petitioners in the Suit 2nd Item.

6. It is also submitted by the learned counsel appearing for the petitioners that the respondents filed an application for appointment of Advocate Commissioner earlier and the same was dismissed by the Trial



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Court and the said order was confirmed by this Court. In such circumstances, the second petition for appointment of Advocate Commissioner is not at all maintainable.

7. It is seen from the records the earlier application for appointment of Advocate Commissioner was filed by the respondent, when the suit prayer was only for bare injunction. The said application was dismissed on the reasoning in a suit for bare injunction, appointment of Advocate Commissioner was not necessary. Thereafter, an amendment application was filed by the respondents and prayer for mandatory injunction in respect of 2nd Item was included.

8. In view of the subsequent change of circumstances, the appointment of Advocate Commissioner is necessary. Therefore, the dismissal of the earlier application when the suit prayer was bare injunction will not bar the respondents from seeking appointment of Advocate Commissioner based on change of circumstances. If the Advocate Commissioner measures the suit property with the help of Surveyor with reference to the title deeds of the plaintiffs and defendants and also revenue records, certainly it will help the Court to decide the real controversy in the suit.



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9. Further, the actual measurement of the constructions in the Suit 2nd Item can also be earmarked with the help of Advocate Commissioner's report. Therefore, I do not find anything to interfere with the impugned order passed by the learned District Munsif, Thiruthuraipoondi in I.A.No.03 of 2025 in O.S.No.101 of 2014, dated 12.09.2025.

10. Accordingly, the Civil Revision Petition stands dismissed. However, it is made clear that the Advocate Commissioner shall measure the suit property with the help of Surveyor with reference to the title documents of both the parties and the revenue records. No costs. Consequently, the connected civil miscellaneous petition is closed.

23.01.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The District Munsif Judge,
Thiruthuraipoondi.

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S.SOUNTHAR, J.

dm

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