



WEB COPY

CRP No. 991 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CRP No. 991 of 2024
C.M.P.No.5089 of 2024**

Samiathal (Died)

1. Sellamuthu
2. Ganesan

..Petitioner(s)

Vs

Kulandaisamy (Died)

1. Mathiarasu
Gunasekaran(Died)
2. Annapoorani @ Annapooraniammal
3. Vijaya
4. Yashawanth
5. Periyasamy
6. Subramani

..Respondent(s)

Prayer:- Criminal Revision Petition filed under Article 227 of Constitution of India, pleased to set aside the fair and decretal order dated 30.11.2023 made in I.A.No.2 of 2023 in O.S.No.466 of 2008 on the file of the District Munsif Court, Dharapuram by allowing this CRP

For Petitioner(s): Mr.D.Akaash for Mr.N.Manoharan
For Respondent(s): Ms.A.Kalaiselvi for M/s.K.Sudhakar for R1 to R4.
Ms.V.Kopika for M/s.M.Guruprasad
for R5 and R6.

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court allowing the application filed by the respondents 1 to 4 seeking impleadment of respondents 5 and 6.



2.The petitioners herein filed a suit seeking declaration of title and permanent injunction against respondents 1 to 4. During pendency of the suit an Advocate Commissioner was appointed to visit suit property and measure the same with the help of surveyor. When the Advocate Commissioner visited the suit property with the help of surveyor there was some obstruction by the proposed parties namely respondents 5 and 6. Hence, the instant application has been filed by the respondents 1 to 4 seeking impleadment of respondents 5 and 6 and the same was allowed by the trial Court. Aggrieved by the same, the petitioners have come before this Court.

3.The learned counsel for the petitioners would submit in a suit for declaration of title and permanent injunction filed by the petitioners, the adjacent owners who are not having any right over the suit property are not at all necessary parties. Therefore, the trial Court committed an error in allowing the impleading application.

4.The learned counsel appearing for the respondents would submit that since at the time of local inspection by the Advocate Commissioner there was obstruction by the proposed parties. The trial Court rightly allowed the application.



5.If there is any obstruction at the time of local inspection by the Advocate Commissioner it is always open to the trial Court pass orders for necessary Police protection to execute the warrant. Merely because, there is some objection by the adjacent owners they need not be impleaded in the *lis* when they are not claiming right over the property. Further, petitioners as a plaintiffs are *dominus litis* and they cannot be compelled to implead the parties with whom they are not ready to fight.

6.In the affidavit filed in support of the impleading application the respondents 1 to 4 stated that respondents 5 and 6 attempted to obstruct the Advocate Commissioner and therefore, they should be impleaded. It is not the case that proposed parties claiming right over the property. In such circumstances, the order passed by the trial Court allowing the amendment application is erroneous and the same is liable to be set aside. Accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To:-
The District Munsif, Dharapuram.

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S.SOUNTCHAR, J.

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