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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-11-2026

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRP.No.1641 of 2023
CNR:{HCMA010175122023}
and
CMP.No.10707 of 2023

Case QR

1. G.Natarajan
2. N.Vinayagam
   Rep. by his Power Agent/ Father G.Natarajan

..Petitioners

Vs

1. Thiyagarajan (Died)
2. Inidra
3. Jayaraman
4. Minor Sivaraman
   (Rep by Guardian/mother 2nd Respondent herein)
   (R1 Died, R2 to R4 brought on record as LRs of the deceased R1 vide order of court dated 10.11.2026 made in CMP.Nos.25027 & 25455 of 2026)

..Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed on 03.11.2022 in I.A.No.139 of 2020 in O.S.No.128 of 2020 on the file of the Court of the Additional District Munsif at Chidambaram.

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For Petitioners: Mr.S.Vijayanand

For Respondents: Mr.A.Muthukumar For R2 to R4

ORDER

This Civil Revision Petition has been under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.139 of 2020 in O.S.No.128 of 2020 03.11.2022 on the file of the Court of the Additional District Munsif at Chidambaram, wherein an application filed by the petitioners/plaintiffs under Order 26 Rule 9 CPC for appointment of an Advocate Commissioner to make an inspection and to submit a report along with the plan came to be dismissed by the Court below.

2.Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents and carefully perused the materials available on record and this Court also carefully went through the order passed by the Court below.

3.The petitioners are the plaintiffs who filed a suit in O.S.No.128 of 2020 seeking for the relief of declaration to declare that they have title over the suit

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wall and for a permanent injunction against the defendant from causing any damage to the existing wall.

4.I.A.No.139 of 2020 was filed under Order 26 Rule 9 CPC for appointment of an Advocate Commissioner to inspect the suit property and to submit a report.

5.The Court below dismissed the said application on the ground that the petitioners/plaintiffs filed the suit for declaring their right and title over the wall and therefore, the petitioners must first let in evidence and prove their case and the Advocate Commissioner cannot be appointed for this purpose. Aggrieved by the said order, the present Civil Revision Petition has been filed before this Court.

6.In the considered view of this Court, taking note of the nature of relief that has been sought for by the petitioners/plaintiffs, it requires recording of evidence. After the Court records the evidence of both sides, if the Court feels that report of an Advocate Commissioner will enable the Court to effectively dispose of the suit, at that stage, Advocate Commissioner can be appointed.

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This case cannot start with the report of an Advocate Commissioner and rather, it has to end with the report of the Advocate Commissioner, if the Court wants such a report to effectively dispose of the suit.

7.The learned counsel for the petitioners raised a grievance that pending the suit, part of the wall has been demolished by the defendant which causes danger to the structure of the property belonging to the petitioners/plaintiffs.

8.Per contra, the learned counsel for the respondents submitted that the wall fell down even in the year 2007 and it was not demolished as is alleged by the plaintiffs.

9.The above issue that has been canvassed before this Court cannot be gone into in this Civil Revision Petition. If according to the petitioners, the wall is being demolished and it causes danger to the suit property, the petitioners will have to seek for an appropriate interim order before the Court below. The appointment of an Advocate Commissioner will not provide the remedy for the petitioners/plaintiffs, in this regard.

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10.In the light of the above discussion, the order passed by the Court below is sustained. It is made clear that the Court below will proceed further to record the evidence of both sides and after completing the process, will ultimately consider if the report of the Advocate Commissioner will enable the Court to effectively dispose of the suit on merits and at that juncture, the Court below shall take necessary decision.

11.In the result, the Civil Revision Petition is disposed of with a direction to the learned Additional District Munsif at Chidambaram to dispose of the suit in O.S.No.128 of 2020 within a period of six months from the date of receipt of a copy of this order. No Costs. Consequently, the connected miscellaneous petition is closed.

23-11-2026

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

cse

To

The Additional District Munsif,
Chidambaram.

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N.ANAND VENKATESH, J.

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