



WEB COPY

CRP Nos.1043 & 1047 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 18-03-2026**

CORAM

**THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI**

**CRP Nos.1043 & 1047 of 2026 &**

**CMP.No.5589 of 2026**

1. K. Nathiya, W/o Kesavan,  
Res at No 103,  
Marappa Colony,  
Bramamadesam Village and post,  
Anthiyur Tk, Erode Dist.
2. Kesavan, S/o. Narayanan,  
Res at No 103,  
Marappa Colony,  
Bramamadesam Village and post,  
Anthiyur Tk, Erode Dist.
3. Subbulakshmi, W/o. Narayanan,  
Res at No 103,  
Marappa Colony,  
Bramamadesam Village and post,  
Anthiyur Tk, Erode Dist.

..Petitioner(s) in both  
CRPs

Vs

1. G. Palanisamy, S/o Gurusamy Gounder,  
Res at 400,  
Myladikal Thottam,  
Vempathi Village,  
Sindhagoundenpalayam Post,  
Anthiyur Tk, Erode Dist.



2. P. Prabhu, S/o. G. Palanisamy,  
Res at 400,  
Myladikal Thottam,  
Vempathi Village,  
Sindhagoundenpalayam Post,  
Anthiyur Tk, Erode Dist.

..Respondent(s) in both  
CRPs

Prayer : Civil Revision Petitions filed under Article 227 Constitution of India to set aside the order and decree dated 30.10.2025 in IA Nos.5 & 6 of 2025 in OS No.86 of 2024 on the file of District Munsif Court, Anthiyur.

For Petitioner(s): MR.R.Rajaram [ in both CRPs]

For Respondent(s): Mt.C.Munusamy [ in both CRPs]

### **COMMON ORDER**

Challenging the impugned Order passed by the trial Court in I.A.Nos.5 and 6 of 2025 in O.S.No.86 of 2024, the present Civil Revision Petitions have been filed by the defendants.

2. The plaintiffs/respondents have filed the suit for declaration to declare that the plaintiffs have got an easement right by necessity over the ABCD suit cart track and for consequential injunction. Pending suit, the plaintiffs have filed an application for appointment of an Advocate Commissioner to note



down the physical features of the suit property and to take measurement of the suit property wherever necessary and file a report along with the plan. The trial Court had appointed an Advocate Commissioner and the Advocate Commissioner has also filed his Report. The petitioners have filed the present applications stating that as the Advocate Commissioner has not issued notice to the petitioners before the date of inspection, the report of the Advocate Commissioner has to be scrapped and fresh Advocate Commissioner has to be appointed to revisit the suit property and to file a report. The said applications have been dismissed by the trial Court. Aggrieved over the same, the present revision petitions have been filed by the petitioners.

3. The learned counsel appearing for the petitioners would submit that since the Advocate Commissioner has not issued notice to the petitioners before the date of inspection and that before the date of inspection by the Advocate Commissioner, the respondents have brought JCB and freshly rolled out a cart track so as to fit in with the alleged cart track claimed by them in the plaint and hence, sought to scrap the report of the Advocate Commissioner and for appointment of fresh Advocate Commissioner.

4. Whereas, the learned counsel appearing for the respondents would contend that before inspection of the suit property, the Advocate Commissioner had given notice to both the parties and after inspection by the Advocate



Commissioner, he had filed his report before the Court and the same is sufficient for the purpose of the suit and there is no mistake on the part of the Advocate Commissioner and hence, prayed for dismissal of these Revision Petitions.

5. A perusal of records reveal that the plaintiff had filed a suit for declaration of their easment right. Therefore, to prove their right of use of the cart track, they filed an application for appointment of an Advocate Commissioner. The Advocate Commissioner was appointed and he had also filed a report before the trial Court. It is the contention of the petitioners that as the Advocate Commissioner has not given notice to the petitioners, the report of the Advocate Commissioner is not sustainable one and the same is liable to be scrapped. As per the report filed by the Advocate Commissioner, he has given notice to the defendants and it is specifically stated in the report that the defendants and their counsel were present at the time of inspection. Therefore, there is no need to scrap the report filed by the Advocate Commissioner. Since the defendants and their counsel were not present at the time when the Advocate Commissioner visited the property for the second time, in order to give one more opportunity to the petitioners, the same Advocate Commissioner is directed to revisit the suit property by giving notice to both the parties along with the surveyor, at the costs of the defendants and inspect the property and file a fresh report along with the plan.



6. With the above directions, the Civil Revision Petition filed in CRP.No.1047 of 2026 for appointment of fresh Advocate Commissioner is partly allowed. Civil Revision Petition in CRP.No.1043 of 2026 filed to scrap the report of the Advocate Commissioner is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**18-03-2026**

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

vrc

To

The District Munsif,  
Anthiyur.



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**T.V.THAMILSELVI, J.**

VRC

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