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C.R.P.(PD) No.1141 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2026

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

**C.R.P.(PD) No.1141 of 2026
and C.M.P.No.5930 of 2026**

1. Shek Dhavuth,
S/o. Abdul Rashid Begam
2. Karunishabegam,
W/o. ShekDhavuth,

Both are residing at:
NGGOs' Colony,
Collectorate Post,
Nallampalli Taluk,
Dharmapuri District.

..Petitioners

Vs.

Sasikala,
W/o. Krishnan,
NGGOs' Colony,
Collectorate Post,
Nallampalli Taluk,
Dharmapuri District.

..Respondent

This Civil Revision Petition has been filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 07.08.2025 made in I.A.No.01 of 2024 in O.S.No.131 of 2019 on the file of the District Munsif Court, Dharmapuri.



For Petitioners : Mr.N.Manoharan

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ORDER

This Civil Revision Petition has been filed by the Petitioners praying to set aside the fair and decreetal order dated 07.08.2025 in I.A.No.01 of 2024 in O.S.No.131 of 2019 passed by the learned District Munsif, Dharmapuri.

2. The brief facts of the case are that the Respondent/Plaintiff had filed an original suit in O.S.No.131 of 2019 before the District Munsif Court, Dharmapuri as against the Petitioners/Defendants. The reliefs sought in O.S.No.131 of 2019 are as follows:

- (a) For granting permanent injunction restraining the Defendants and their men from in any way interfering with the Plaintiff's peaceful possession and enjoyment of the suit property fully described hereunder in the schedule; and*
- (b) For awarding cost of the suit.*

3. While the suit is pending, Petitioners/Defendants had filed an Interlocutory Application in I.A.No.01 of 2024 in O.S.No.131 of 2019 seeking to appoint an Advocate Commissioner to inspect the suit property and adjoining property allegedly belonging to them (Plot No.48) along with the assistance of a



licensed Surveyor and Village Administrative Officer and to submit a Report regarding the alleged encroachment of 2 feet on the southern side of Plot No.48 by the Respondent/Plaintiff who owns Plot No.69. However, the Trial Court, vide Order dated 07.08.2025, dismissed the said Interlocutory Application. Aggrieved by the said order, Petitioners have filed this Civil Revision Petition.

4. The learned counsel for Petitioners submitted that Petitioners' property is located at Plot No.48 and the Respondent's property is located at Plot No.69. The Petitioners' property lies on the southern side of Respondent's property. The Respondent had illegally encroached 2 feet of land on the southern side of Petitioners' Plot No.48. Therefore, the Petitioners had filed I.A.No.01 of 2024 in O.S.No.131 of 2019 seeking to appoint an Advocate Commissioner to inspect the suit property and submit a Report regarding the encroachment made by the Respondent. Before the Trial Court, the Respondent had filed a Counter Claim denying all the averments made by the Petitioners in I.A.No.01 of 2024 in O.S.No.131 of 2019.

4.1. It is further submitted by the learned counsel for Petitioners that appointing an Advocate Commissioner to note down the physical features and to measure the suit property to identify the encroachment is very much essential for effective adjudication of the suit. However, without considering the same, the learned Trial Judge has dismissed I.A.No.01 of 2024 by holding that the said



Application is premature, speculative and intended to collect evidence under the guise of an inspection. Therefore, the learned counsel prayed that the impugned order may be set aside and this Civil Revision Petition may be allowed.

5. Heard the learned counsel for Petitioners and perused the materials available on record.

6. As far as this case is concerned, with regard to the boundaries and extent of the suit property, there is a dispute between the Petitioners and Respondent. In case, if there is any encroachment in the suit property, the appointment of an Advocate Commissioner is necessary to determine the actual extent of encroachment.

7. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel for Petitioners, this Court is inclined to set aside the impugned order and allow this Civil Revision Petition.

8. Accordingly, Order dated 07.08.2025 in I.A.No.01 of 2024 in O.S.No.131 of 2019 passed by the learned District Munsif, Dharmapuri is set aside and this Civil Revision Petition is allowed. As a sequel, I.A.No.01 of 2024 in O.S.No.131 of 2019 is allowed and the learned District Munsif, Dharmapuri is directed to appoint an Advocate Commissioner to inspect the suit



property; measure and note down the physical features of the suit property with the assistance of a Surveyor and Village Administrative Officer and to file a detailed Report, within a period of two weeks from the date of receipt of warrant. Liberty is granted to the Respondent/Plaintiff to file an Objection to the Advocate Commissioner's Report, if any. No costs. Consequently, connected Miscellaneous Petition is closed.

12-03-2026

Index: Yes/No
Speaking Order (or) Non-Speaking Order
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To

District Munsif Court,
Dharmapuri.



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T.V.THAMILSELVI, J.

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