



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 868 of 2026 and

CMP No.4703 of 2026

Shanmugam, S/o Late Rangasamy
Kupprikapalayam, Kupprikapalayam Village
Perungkurichi Post, Paramathy Velur Taluk
Namakkal District.

..Petitioner(s)

Vs

Lakshmi Ammal (Died)

1. Lakshmana Gounder, S/o Palaniyappa Gounder
Door No-3, Karukampalaya
Perethi Village, Tiruchengode Taluk,
Namakkal District.

Sengoda Gounder (Died)

2. Thirumoorthy, S/o Ponnusamy
Pallakadu, Kupprikapalayam,
Perungkurichi Post
Paramathy Velur Taluk
Namakkal District.
3. Parimala Devi, D/o Nallappa Gounder,
Periya Thottam, Perithi Thottipalayam,
Perithi Village, Pannerkuthipalayam,
Tiruchengode Taluk, Namakkal District.
4. Chinnammal, W/o Late Palanisamy,
Door No.2/11, Navakadu,
Karukkampalayam Perithi,
Sengodapalayam Village,
Pannerkuthipalayam, Tiruchengode Taluk
Namakkal District.



5. Shanmugam, S/o Late Sengoda Gounder,
Door No.2/12, Navakadu,
Karukkampalayam Perithi,
Sengodapalayam Village,
Pannerkuthipalayam, Tiruchengode Taluk
Namakkal District.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 06.11.2025 made in IA.No.11 of 2025 in OS.No.11 of 2020 on the file of the Subordinate Court at Paramathy.

For Petitioner(s): Mr. T.L.Thirumalaisamy

For Respondent(s): Mr.V.Gunasekar for R3

ORDER

Mr.V.Gunasekar, learned counsel takes notice for the third respondent.

2. This civil revision petition has been filed challenging the order passed by the Trial Court, dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner.

3. The petitioner herein/plaintiff filed a suit in O.S.No.11 of 2020 for declaration of title. Pending suit, he filed the instant application in I.A.No.11 of 2025 seeking appointment of Advocate Commissioner to note down the physical features of the suit property. In the affidavit filed in support of the



above said application, it was stated by the petitioner that the fifth defendant, when she was examined as DW1, stated that she had no objection for appointment of Advocate Commissioner to find out the exclusive enjoyment of the petitioner over water canals, bore well, coconut groves, separate wells, eucalyptus trees, drip irrigation etc. Therefore, in order to establish the same, the petitioner wanted to appointment of Advocate Commissioner to note down the physical features of the suit property. The said application was dismissed by the Trial Court. Aggrieved by the same, the petitioner has come before this court.

4. The learned counsel for the petitioner would submit that in the instant application, the petitioner sought for appointment of Advocate Commissioner, however, if warrant is re-issued to the earlier Advocate Commissioner, it will be sufficient for the petitioner. It is further submitted by the counsel that the existence of water canals has not been denied by the 5th defendant in her cross examination and hence, re-issuance of warrant to the earlier Advocate Commissioner is necessary.

5. It is seen from the typed set of papers that the petitioner already filed an application in I.A.No.3 of 2020 seeking appointment of Advocate Commissioner and the said application was allowed by the Trial Court. The Advocate Commissioner, after conducting local inspection, filed a report, for



which the respondents filed their objection. However, the petitioner has not filed any objection to the earlier report. The petitioner preferred the present application seeking appointment of Advocate Commissioner, without filing any objection to the earlier report. In fact, in the affidavit filed in support of the instant application, the petitioner not even referred to the filing of the report by the earlier Advocate Commissioner. When the Advocate Commissioner appointed earlier, filed a report noting down the physical features of the suit property, the prayer sought for by the petitioner for the second time is not at all maintainable. In the affidavit filed in support of the instant application, it is stated by the petitioner that the fifth defendant, when she was examined as DW1 stated that she had no objection for appointment of Advocate Commissioner to assess the exclusive enjoyment of the petitioner regarding water canal , bore well, separate well, coconut grove, etc. and hence, prayed for appointment of Advocate Commissioner.

6. It is settled law that the Advocate Commissioner cannot give evidence regarding the possession of the parties. Therefore, exclusive enjoyment of the parties with regard to the water canal, bore well, coconut grove etc. cannot be assessed by the Advocate Commissioner and he can only note down the physical features. In the case on hand, earlier, Advocate Commissioner was appointed and noting down the physical features, he also filed a report. In fact, the petitioner has not filed any objection to the report filed by the Advocate



Commissioner. In such circumstances, the Trial Court rightly dismissed the application and I do not find any error to interfere with the same.

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7. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

24-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

The Subordinate Judge, Paramathy.



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S.SOUNTHAR, J.

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