



C.R.P.No.1304 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.02.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.1304 of 2024

and

C.M.P.No.6907 of 2024

1.K.Subramanian

K.Natarajan (Died)

2.K.Karuppasamy

3.K.Kumarasam

..... Petitioners

Vs

1.R.Dandapani

2.R.Kumarasamy

3.R.Govindasamy

4.Poovathal

5.Manickam

6.Revathi

..... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the Decree and Judgment dated 02.02.2024 passed in I.A.No.6 of 2023 in O.S.No.36 of 2018 on the file of the Principal District Munsif, Sulur.

For Petitioners

: Mr.K.Vasanthanayagan

For R1 & R2

: Mr.K.Selvakumar

For R3 to R6

: No appearance



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ORDER

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The petitioners herein filed a suit seeking a declaration that they are entitled to use the suit cart track as access to their property for taking lorries, vans and other vehicles. They also prayed for a permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the suit property.

2. The case of the petitioners is that the petitioners predecessor-in-interest viz., Sinna Rayagounder, acquired rights over the suit cart track under a partition deed dated 27.10.1938. It is alleged that the respondents attempted to interfere with the petitioners right over the suit cart track and therefore, the instant suit was filed for the aforesaid reliefs. Pending suit, the petitioners filed an instant application seeking appointment of an 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 petitioners have come before this Court.

3. The learned counsel appearing for the petitioners would submit that the existence of the suit cart track has been denied by the respondents in their counter to the petition seeking appointment of an

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Advocate Commissioner and therefore, the Trial Court ought to have appointed an Advocate Commissioner in accordance with law.

4. The learned counsel appearing for the respondents would submit that, being the plaintiffs, it is duty of the petitioners to prove the existence of the cart track and therefore, an Advocate Commissioner cannot be appointed to collect evidence.

5. It is seen from the counter filed by the respondents in I.A.No.6 of 2023 that they denied the existence of the North - South itteri and East – West suit cart track.

6. In view of the controversy regarding the existence of the itteri and suit cart track, this Court feels appointment of an Advocate Commissioner to note down the physical features, is necessary to adjudicate the main controversy in the suit.

7. The petitioners also pleaded that they do not have any other alternative pathway to access the suit property. The correctness of the same can also be gathered by the Advocate Commissioner.



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8. In view of the above, appointment of an Advocate Commissioner to note down the physical features would certainly assist the Court in resolving the controversy in the suit in a more satisfactory manner. Therefore, the impugned order dated 02.02.2024 passed in I.A.No.6 of 2023 on the file of the Principal District Munsif, Sulur, is hereby set aside.

9. Accordingly, this Civil Revision Petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

03.02.2026

Internet:Yes/No

Index:Yes/No

Neutral Citation : Yes/No

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S.SOUNTHAR.J.

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To
The Principal District Munsif,
Sulur.

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