



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-04-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CRP No. 1516 of 2026
and CMP.No.7166 of 2026**

1. G.Kandasamy
S/o.Late Ganapathy Gounder,
D.No.3/88, Pillaiyar Koil Street,
Muthugoundenpudur Post, Sulur Via,
Coimbatore 641 406.

Petitioner(s)

Vs

1. S.Sampathkumar
S/o.Subbanna Gounder, D.No.3/96
Pillaiyar Koil Street,
Muthugoundenpudur Post, Sulur Via,
Coimbatore 641402.

Respondent(s)

PRAYER

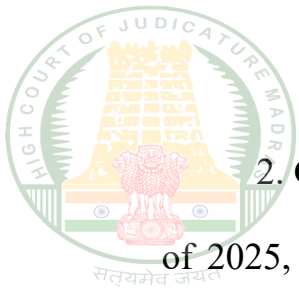
Civil Revision Petition filed under Article 227 of Constitution of India, prays to set aside the fair and decretal order dated 05-02-2026 in IA.No.12 of 2025 in OS.No.145 of 2019 on the file of the District Munsif, Sulur.

For Petitioner(s): Mr.A.Tamilarasan

For Respondent(s):

ORDER

The petitioner has filed this revision petition to set aside the fair and decretal order dated 05.02.2026 in I.A. No. 12 of 2025 in O.S. No. 145 of 2019 on the file of the District Munsif, Sulur.



2. Challenging the impugned order passed by the trial court in I.A. No. 12 of 2025, the plaintiff has filed this appeal. Before the trial court, the plaintiff filed an application under Order XXVI Rule 9 read with Section 151 of the CPC, seeking a direction to the earlier Advocate Commissioner to re-survey the suit property and ascertain the encroachment with the assistance of a Taluk Surveyor.

3. During trial, when he was examined as C.W.1, he was unable to state the extent of the demolished portion of the wall under dispute. Thereafter, the plaintiff again filed I.A. No. 12 of 2025 seeking a direction to the same Advocate Commissioner to re-survey the suit property and find out the encroachment with the assistance of the Taluk Surveyor. However, the said application was dismissed by the trial Judge on the ground that the Commissioner's report had already been filed and neither the plaintiff nor the respondent had raised objections at that stage. He further held that seeking a re-visit after the examination of the Commissioner is not permissible. Aggrieved by the same, the present revision has been filed.

4. Admittedly, on a perusal of the evidence of the Commissioner, he was not able to state the extent of the demolition of the wall or the damages. According to the case of the plaintiff, the defendant encroached upon the B-Schedule property by demolishing the east-west wall and encroached 2 feet in



the north-south direction on both sides of the A-Schedule property.

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5. The plaintiff, who is aged about 86 years, approached the court seeking removal of the said encroachment. However, the Commissioner's report was not clear on this aspect. Therefore, he filed the application seeking a re-visit in order to obtain clear findings regarding the encroachment. The court below failed to grant such an opportunity, which is erroneous. Accordingly, the I.A. No. 12 of 2025 in O.S. No. 145 of 2019 on the file of the District Munsif, Sulur, is allowed, and the same Advocate Commissioner is directed to visit the property with the assistance of the surveyor, ascertain the encroachment, if any, and file a report, at the cost of the plaintiff. Considering that the plaintiff is aged about 86 years, the learned trial Judge is directed to dispose of the case as expeditiously as possible.

6. Accordingly, this Civil Revision Petition stands allowed with the above directions. Consequently, connected miscellaneous petition is closed. No costs.

10-04-2026

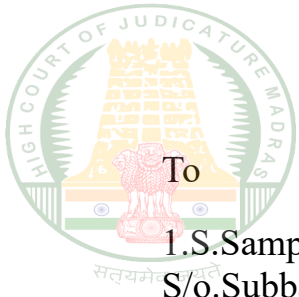
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.S.Sampathkumar
S/o.Subbanna Gounder, D.No.3/96
Pillaiyar Koil Street,
Muthugoundenpudur Post, Sulur Via,
Coimbatore 641402.

2.The District Munsif, Sulur.

3.The Section Officer, VR Section,
High Court of Madras, Chennai.



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T.V.THAMILSELVI J.
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