



WEB COPY

CRP No. 1012 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 1012 of 2021

and

C.M.P.No.8127 of 2021

V.Sundaramurhti,
S/o.Late Visvanathan,
68, East Pandy Road,
Valavanur, Villupuram Taluk,
Villupuram District.

..Petitioner(s)

Vs

1. Dharmalingam,
2. Mani,(Died)
3. Kuppusamy,
4. Thangaraji,(Died)
5. T. Prakash
(Respondent-4 died, Respondent-5 brought on
record as LR of the deceased R4 vide court
order dated 08.06.2023 made in
CMP.No.12986/21)

6. M.Adhilakshmi
7. M.Krishnasaamy
R2 – Died. Respondents 6 and 7 are brought on
record as LRs of the deceased R2 viz., Mani
vide Court order dated 21.06.2023 made in
CMP.Nos.11064 to 11066 of 2023
in CRP.No.1012/2021)

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 05.03.2021 made in I.A.No.03 of 2020 in A.S.No.07 of 2016 on the file of the Learned Additional District Court (Fast Track Court), Villupuram.



For Petitioner(s): Mr.N.Manoharan

For Respondent(s): For R1 & R3 - No appearance
For R4 – Died
For R2 – Died
R5 to R7 – Not ready in notice

ORDER

The present Civil Revision Petition has been filed to set aside the fair and decretal order dated 05.03.2021 made in I.A.No.03 of 2020 in A.S.No.07 of 2016 on the file of the Learned Additional District Court (Fast Track Court), Villupuram.

2. Heard Mr.N.Manoharan, learned counsel for the petitioner.

3. In spite of notice having been served on respondents 1 and 3 and their names also having been printed in the cause list today, there is no representation on the side of the respondents 1 and 3.

4. The challenge in this revision is to the order, rejecting the Interlocutory Application for appointment of an Advocate Commissioner at the stage of First Appeal.



5. The learned counsel for the petitioner would vehemently contend that the respondents/plaintiffs, even though had sought for a relief in respect of the 'B' schedule property by way of declaration and for delivery of possession, had not proved by any evidence or even by appointing an Advocate Commissioner that the petitioner had encroached upon the said property. Hence, to substantiate his case in the appeal, the petitioner had taken out an application for appointment of an Advocate Commissioner, which the trial Court had rejected without appreciating the claim made by the petitioner by holding that the allegation of encroachment are clear and that there was no necessity to appoint an Advocate Commissioner.

6. I have considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

7. It is to be noted that the trial court, while deciding the issues, had relied upon Exs.A13 and A14, which are the Sale Deeds under which the respondents had purchased and mortgaged the property respectively, had also taken into consideration Ex.B1 under which the petitioner had purchased the property. The trial court had also analysed the respective extents shown in the aforesaid exhibits and had arrived at the conclusion in decreeing the suit as prayed for in respect of declaration and delivery of possession.



8. Even though the petitioner had claimed that there has been no demarcation of properties under schedule 'B', this Court finds that the findings of the trial court, which are under challenge in appeal, could be decided based upon such findings and therefore, there is no necessity to appoint an Advocate Commissioner to find out as to what was the extent as owned by the respondent's trust and as to whether the petitioner had encroached upon any portion of the respondent's property. Such an attempt is only to collect evidence to substantiate the claim, which cannot be permitted at this stage.

9. Since the documents relating to the properties in issue had already been marked as various exhibits before the trial court, the Appellate Court can very well analysed the said documents, in deciding the *lis*.

10. For the aforesaid reasons, this revision petition fails and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12-03-2026

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

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To

The learned Additional District Court
(Fast Track Court), Villupuram.

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K.KUMARESH BABU, J.

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