



CRP No.1442 of 20_

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

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

CRP No. 1442 of 2026 and CMP No. 6928 OF 2026

J.Krishnakumar Mundhra,
S/o. Late.C.Jeevanlalji Mundhra,
Door No.32/12, Mahalakshmi Street,
T.Nagar,
Chennai-600 017.

..Petitioner(s)

Vs

J.Shyamdev Mundhra,
S/o. Late.C.Jeevanlalji Mundhra,
No.10/2, Tholasingam Street,
Chennai-600 079.

..Respondent(s)

PRAYER IN CRP No. 1442 of 2026

Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decretal Order dated 10.02.2026 made in IA.No.6 of 2023 in OS.No.3295 of 2023 on the file of the Ld. III Assistant Judge, City Civil Court, Chennai, by allowing this Civil Revision Petition.

For Petitioner(s):

Mr. N.Manoharan for
Mr. P.Krishnan

For Respondent(s):

Mr.J.Ramkumar
For Mr. K.Bakthavachalu



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ORDER

Challenging the impugned order passed in I.A.No. 6 of 2023 in OS.No.3295 of 2023, the defendant has filed the above revision.

2. Before the trial Court, the revision petitioner/defendant has filed an application in I.A.No.6 of 2023 under Order XXVI Rule 9 of Civil Procedure Code to appoint an Advocate Commissioner to inspect the property situated at Door No.32/12, Mahalakshmi Street, T.Nagar, Chennai-600 017. After hearing both sides, the trial Judge dismissed the application holding that the petition filed for appointment of Advocate Commissioner is devoid of merits. Aggrieved by the same, the defendant has filed the present revision.

3. Learned counsel for the petitioner/defendant submits that though the suit was filed by the respondent/plaintiff for bare injunction, considering the boundaries of the properties, the revision petitioner/defendant wanted to elucidate the Court with the help of an Advocate Commissioner. But the Court failed to give an opportunity to the defendant and therefore he rays to set aside the findings of the trial Court. Learned counsel further submits that

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as per the Partition Deed dated 10.08.2021, one of the boundaries was shown as Mahalakshmi Street by both the parties and to clarify the same, the revision petitioner wanted to appoint an Advocate Commissioner. Learned counsel further submits that the object of appointment of Advocate Commissioner is in order to show that the respondent/plaintiff is not in possession of the property and also the description found in the suit property also to be viewed with the help of the Advocate Commissioner's Report and as on date, the petitioner/defendant is in possession of the entire property. Therefore, the alleged claim of the relief of possession made by the plaintiff is not true and he wanted to prove the same and therefore prayed for an appointment of Advocate Commissioner.

4. By way of reply, counter statement has been filed which states that at the time of partition, in the schedule, the properties allotted to the parties, were described in the partition deed dated 10.08.2001. At the time of execution of the partition deed in the year 2001 itself, "B" and "C" were allotted to the plaintiff and the defendant and it was clearly shown in the plan attached in that document.



5. Learned counsel for the petitioner points out that there is no mentioning of the house situated in “B” and “C” schedule as per plan.

6. Heard the submissions of the learned counsel on either side and perused the materials available on record.

7. Admittedly, there is well constructed house and the revision petitioner is occupying the same. Mere non-mentioning of the house is not fatal to any of the parties because from 2001 onwards, this document is acted upon and based on that, the parties have enjoyed the property. Therefore, mere non-mentioning of the house is not fatal to the relief claimed by the respondent/plaintiff in the suit. As per partition deed, “B” schedule property has been clearly demarcated through plan attached which is sufficient and therefore, there is no need to appoint an Advocate Commissioner to identify the location of the property.

8. In the light of the above, the order passed by the trial Court in I.A.No.6 of 2023 in OS No.3295 of 2023 is confirmed and the civil revision petition is dismissed.



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9. Learned counsel for the revision petitioner/defendant wants to settle the other issues in respect of other properties, whereas, the respondent/plaintiff is not willing to settle. As both parties are senior citizens, the trial Judge is directed to dispose of the suit in O.S.No.3295 of 2023 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

25.03.2026

sr

Index:yes/no

Website:yes/no

Speaking Order/Non-Speaking Order

To

The III Assistant Judge, City Civil Court, Chennai



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T.V.THAMILSELVI,,J

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