



WEB COPY

CRP No. 2258 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2026

CORAM

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

CRP No. 2258 of 2026

AND

CMP NO. 9779 OF 2026

1. Anthony Lorudu Raj
S/o. Late K.P.Innaiah,
Res. at No.40/A,
Foxen Lane, Perambur,
Chennai-600 011.
2. Lilly Inniah
W/o. Late. K.P. Innaiah,
No.40/A, Foxen Lane,
Perambur,
Chennai 011.
3. Annie
D/o. Late. K.P. Innaiah,
No.40/A, Foxen Lane,
Perambur,
Chennai 011.

..Petitioner(s)

Vs

Mary (Died)

Balaiah (Died)

1. Amal Gracy,
W/o. Arumugam,
Madha Koil Street,
Kilachery, Thiruvallur Taluk.
2. Margret Rosy
W/o. Pushparaj,
Madha Koil Street,



Kilachery, Thiruvallur Taluk.

3. Mariya Prakash
S/o. Balaiah,
Madha Koil St,
Kilachery, Thiruvallur Taluk.

..Respondent(s)

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order dated 10.10.2025 made in IA No.7 of 2025 in OS No.199 of 2010 on the file of Principal District Munsif Court, Tiruvallur.

For Petitioner(s): Mr.Ravikiran R

ORDER

Challenging the impugned order dated 10.10.2025 made in IA No.7 of 2025 in OS No.199 of 2010 on the file of Principal District Munsif Court, Tiruvallur, the defendants have preferred this revision petition.

2. The revision petitioners are the defendants. Before the trial court they filed an application in IA No.7 of 2025 to appoint an Advocate Commissioner to examine one Rajammal, wife of late Mariadas. In order to prove the Will of one P.S. Inniah, who was attesor of the Will dated 01.01.1971 marked as Ex.B2 and the said attesor was taken care of by one Maridas and his wife Rajammal and now the said attesor also died and in order to prove that he was under care and custody of the said Mariadas and Rajammal and to identify his signature,



they want to examine the said Rajammal through Advocate Commissioner since she is aged about 84 years but the Court below failed to give such opportunity.

Therefore, they come forward with this revision petition.

3. The learned counsel for the revision petitioners submits that the plaintiffs / respondents come forward to file the suit for partition. But as per the Will 01.01.1971, the defendants are claiming right over the property and to prove the Will, one of the attestors has to be examined. But the attestor P.S.Chinnaiah died long back. Before that he was under the care and custody of one Mariadas and Rajammal who were very well known his signature. In order to prove the same, they wants to examine them. Already the revision petitioners filed an application in IA No.2 of 2020 to appoint Advocate Commissioner to examine one Mariadas since he died, the memo was closed. Now they wants to examine the wife of the said Mariadas, namely, Rajammal, who is also aged about 84 years. Therefore, she has to examined through the Advocate Commissioner.

4. Considering the written statement filed by the defendants which reveals that they are claiming right over the property based on the Will dated 01.01.1971, a fair opportunity is to be given to the parties to prove the Will in the manner known to law. Now one of the attestors died and to adduce the secondary evidence the second defendant approached this Court to examine the



other available witnesses. In order to prove the capacity of the attestor, since the witness is aged about 84 years, they want to examine through Advocate Commissioner as such is permissible under law. But the court below failed to give such opportunity. If suppose such an opportunity was not given, then the right to defend the case would be defeated therefore the findings of the Trial Court is set aside. The trial court is directed to appoint an Advocate Commissioner within a period of two weeks from the date of receipt of a copy of this order. The Advocate Commissioner is also directed to record the evidence of Rajammal, since she is also aged about 84 years, without unnecessary delay.

5. Accordingly, this Civil Revision Petition is allowed. The impugned order dated 10.10.2025 passed in IA No.7 of 2025 in OS No.199 of 2010 on the file of Principal District Munsif Court, Tiruvallur, is set aside. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

16-04-2026

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

MTL

To

1. The Principal District Munsif Court, Tiruvallur.



WEB COPY

CRP No. 2258 of 2



T.V.THAMILSELVI J.

MTL

**CRP No. 2258 of 2026
AND
CMP NO. 9779 OF 2026**

16-04-2026