



WEB COPY

CRP No. 2078, 2079 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 2078, 2079 of 2024 and

CMP Nos.11126 of 2024

M. Jayakumar

S/o. Late Munusamy, 5/147, MM Koil Street,
Sennur Kuppam, Poonamalee, Chennai - 600 056.

..Petitioner(s) in
both CRPs

Vs

K.R. Kamala Kannan

S/o.Radhakrishnan, S/o.Radhakrishnan, No.1/107,
Amman Koil Street, Kuthambakkam, Poonamalee,
Chennai - 600 056.

..Respondent(s) in
both CRPs

Common Prayer: Civil Revision Petitions filed under Article 227 of Constitution of India to set aside the fair and decreetal passed in IA.No.3 / 2024 and I.A.No.4/2024 in OS.No.19/2023 dated 15-03-2024 by the learned 3rd Additional District Judge, Poonamallee.

For Petitioner(s): No appearance

For Respondent(s): M/s.V.Ayyappa Raja



WEB COPY



COMMON ORDER

CRP No.2078 of 2024 has been filed, challenging the order passed by the Trial Court, allowing the application filed by the respondent/plaintiff to reopen the evidence of PW1.

2. CRP No.2079 of 2024 has been filed, challenging the order passed by the Trial Court, allowing the application filed by the respondent/plaintiff seeking appointment of Advocate Commissioner to measure the suit property and to note down the physical feature of the suit property with the help of taluk surveyor.

3. The respondent herein/Plaintiff filed a suit in O.S.No.19 of 2013 seeking declaration of title and delivery of vacant possession of the suit property, after removal of the superstructure in the suit property. According to the respondent/ plaintiff, he purchased the property from one Vaduvambal and others represented by their power of attorney S.Asokan, under a registered sale deed dated 03.08.2007 and from the date of purchase, he has been in possession and enjoyment of the suit property . It is further stated by the respondent /plaintiff that during May 2010, while visiting the property, he found that the petitioner/defendant encroached the suit property and had put up constructions.



Thereafter, the suit property was measured with the help of surveyor and the encroachment made by the defendant was confirmed by survey dated 13.07.2012. Therefore, the respondent was constrained to file a suit for the above said reliefs.

4. The petitioner herein/defendant filed a written statement and resisted the suit on the ground that he has been in possession and enjoyment of the property from the year 1979. The averments made by the respondent in his plaint that the petitioner encroached the property during May 2010 was specifically denied by the petitioner/defendant. Further, the petitioner/defendant in his written statement had taken a stand that he has been in possession and enjoyment of 7 cents in S.No.51/16 with four specific boundaries, which is not tallying with the boundaries mentioned in the plaint.

5. Initially, the respondent/plaintiff filed the suit in respect of the properties situated in S.No.51/4 and the same was subsequently amended as S.No.51/16, by virtue of the order by this court in CRP No.3863 of 2015 dated 09.01.2019. It is further stated by the respondent in his affidavit filed in support of the application seeking appointment Advocate Commissioner that he filed an application before the revenue authorities seeking copies of the documents relating to the survey done in respect of the suit property, however, he received a reply from the Tahsildar that the records relating to the survey with regard to



the suit property was not available in the office. Therefore, in order to locate the suit property and to clear the dispute with regard to the boundaries mentioned in the plaint and the written statement, the respondent filed two applications to re-open the evidence on the side of plaintiff and to appoint an Advocate Commissioner to measure the property with the help of surveyor. Both the applications have been allowed by the Trial Court. Aggrieved by the same, the petitioner/ defendant has filed the present civil revision petitions.

6. When the Civil Revision petitions were came up for hearing on 02.02.2026, the learned counsel for the petitioner/defendnat was not ready and at his request, these matters were posted today under the caption “for orders”. Today also, there is no representation for the petitioner. The counsel for the respondent is ready and this court heard the arguments of the respondent/ plaintiff.

7. A perusal of the typed set of papers would indicate that there is some controversy in the pleadings with regard to the four boundaries of the property. The four boundaries mentioned in the plaint is not tallying with the four boundaries mentioned by the defendant in his written statement. The respondent/ plaintiff also sought for removal of construction in the suit property. In view of the same, he prayed for appointment of Advocate Commissioner to locate the suit property with the help of surveyor and to find out whether any



construction is available in the suit property and also to reopen the evidence of plaintiff side. The Trial Court rightly appreciated the controversy involved in the pleadings and found that appointment of Advocate Commissioner to measure the suit property with the help of surveyor and to note down the physical features are absolutely necessary and in view of the same, allowed both the petitions. I do not find any error in the impugned orders passed by the Trial Court.

8. Accordingly, both the civil revision petitions are dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

05-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

The III Additional District Judge,
Poonamallee.



WEB COPY

CRP No. 2078, 2079 of 2



S.SOUNTHAR, J.

MST

CRP Nos. 2078, 2079 of 2024

05-02-2026