



WEB COPY

CRP No. 2113 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-04-2026

CORAM

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

CRP No. 2113 of 2026

AND

CMP No. 9290 of 2026

1. Raji Alias Rajammal
W/o. Late Bheeman,
D.No.1/318, Melkundha,
Doddacombai, Kundha Taluk, The Nilgrs.

2. S.Ramesh
S/o. Late Bheeman,
D.No.1/318, Melkundha,
Doddacombai, Kundha Taluk, The Nilgrs.

..Petitioner(s)

Vs

Rajendran
S/o. Uthandhi Chettiar,
Res. at Korakundha Estate,
Manjoor Via, Kundha Taluk,
The Nilgrs.

..Respondent(s)

CMP No. 9290 of 2026

1. Raji Alias Rajammal
W/o. Late Bheeman,
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The Nilgrs.
2. S.Ramesh
S/o. Late Bheeman,
D.No.1/318, Melkundha, Doddacombai,
Kundha Taluk, The Nilgrs.



..Appellant(s)

Vs

Rajendran
S/o. Uthandhi Chettiar,
Res. at Korakundha Estate,
Manjoor Via, Kundha Taluk,
The Nilgiris.

..Respondent(s)

CRP No. 2113 of 2026

To set aside the fair and decreetal order passed in IA.No.03 of 2025 in OS.No.70 of 2025 by the District Munsif of Udhagamandalam The Nilgiris dated 13.02.2026.

CMP No. 9290 of 2026

To grant stay of all further proceedings of the suit in OS.No.70 of 2025 on the file of the Ld District Munsif of Udhagamandalam The Nilgiris.

CRP No. 2113 of 2026

For Petitioner(s): Mr.K.Balaji

For Respondent(s):

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 13.02.2026 passed in IA.No.03 of 2025 in O.S.No.70 of 2025 by the District Munsif of Udhagamandalam, The Nilgiris.



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2. The learned counsel for the petitioners would submit that since the respondents illegally encroached a portion of land belonged to the petitioners, they have filed the I.A. No.3 of 2025 before the Trial Court in O.S.No.70 of 2025 seeking to appoint a Court Commissioner to inspect the suit schedule property along with the assistance of Government Surveyor to ascertain the measurement of the suit property, since the Advocate Commissioner is necessary in the case of suit for mandatory injunction to remove the encroachment. But, the Trial Court without considering the facts and circumstances of the case has erroneously dismissed the application.

3.It has been further submitted that since the petitioners are not residing in the scheduled mentioned property, the respondents have illegally encroached the suit property and constructed the compound wall therein. Hence, only through appointment of the Court Commissioner, the encroachment can be identified by way of inspecting the suit property and filing of his report. Without considering the aforesaid facts, the Trial Court dismissed the aforesaid application. Hence, he seeks to set aside the same and allow this Civil Revision Petition.



4. Having considered the facts and circumstances of the case and submissions made by the learned counsel for the petitioners, it is seen that the petitioners have filed the suit in O.S. No.70 of 2025 seeking for mandatory injunction and permanent injunction against the respondents/defendants in view of the illegal construction made by them in the suit schedule property. Now, the petitioners have come forward to appoint an Advocate Commissioner to decide the issue arose between the parties whether the encroachment has been made by the respondents/defendants as averred by the petitioners/plaintiffs or not. The report of the Advocate commissioner would help to decide the issue of both parties on merits in accordance with law.

5. In view of above, this Court is inclined to appoint an Advocate Commissioner to inspect the suit schedule property along with Government Surveyor enabling to file a report along with Sketch pertaining to the suit property. Hence, the Trial Court is hereby directed to appoint an Advocate Commissioner to inspect the suit schedule property and to file his report along with Sketch to decide the issue in accordance with law. Hence, the order dated 13.02.2026 in I.A.No.3 of 2025 passed by the Trial Court is set aside. The Advocate Commissioner is hereby directed to file his report within a period of six weeks on receipt of copy of this order.



6. In view of the aforesaid directions, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10-04-2026

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

Lbm

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T.V.THAMILSELVI J.

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