



WEB COPY

CRP No. 2542 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2026

CORAM

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

CRP No. 2542 of 2024

AND

CMP NO. 13324 OF 2024

1. Athayi Ammal
W/o.Late Muthugounder,
Old Door No.3/126, New No.9/148,
Kozhipannarithottam, Karipatty Post, Valapady
Tk., Salem Dist - 636 106.
2. K.M.Selvam
S/o.Late Muthugounder,
Old Door No.3/126, New No.9/148,
Kozhipannarithottam, Karipatty Post, Valapady
Tk., Salem Dist - 636 106.

..Petitioner(s)

Vs

1. Manickam
S/o.Lae Sengodagounder,
Kallupalathar Thottam, Kattuvalavu, Karipatty
Vilage, Valapadi Tk., Salem Dist - 636 106.
2. Suresh
S/o.Manickam,
Kallupalathur Thottam, Kattuvalavu, Karipatty
Village, Valapadi Tk., Salem Dist - 636 106.
3. Marappan @ Somu
S/o.Late Sengodagooounder,
Kallupalathur Thottam, Kattuvalavu, Karipatty
Village, Valapadi Tk., Salem Dist - 636 106.
4. Prabakaran
S/o.Marappan @ Somu,
Kallupalathur Thottam, Kattuvalavu, Karipatty
Village, Valapadi Tk., Salem Dist - 636 106.



5. Muniappan
S/o.Karuppannagounder,
Ayipalayathur Thottam, Katuvalavu, Kariapatty
Village, Valapadi Tk., Salem Dist- 636 106.
6. Tharadevi
W/o. Muniappan,
Ayipalathat Thottam, Kattuvalavu, Karipatty
Village, Valapadi Tk., Salem Dist - 636 106.
7. The Tahsildar
Valapadi Taluk Office, Valapadi Tk., Salem
Dist.
8. The Village Administrative Officer
Karipatty Village, Valapadi Tk., Salem Dist.
9. The President
Karipatty Panchayathu Office, Kariapatty Post,
Valapadi Tk., Salem Dist.
- 10.R.Manosuriyan
S/o.Ravi, Panchayat President, Karipatty
Panchayat Office, Karipatty Post, Valapadi Tk.,
Salem Dist.
- 11.The District Collector
Salem Dist.

..Respondent(s)

PRAYER

Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 18-03-2024 passed in IA.No.3/2022 in OS.No.380/2021, on the file of the 1st Addl.Subordinate Judge at Salem and Consequently dismiss the IA Seeking for appointment of advocate commissioner.



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For Petitioner(s): Mr.S.Ramajayam

For Respondent(s): Ms.D.Sathya for R1 to R6

Mr.M.Murali,
Government Advocate (AS)
for R7 to R9 & R11
R10 -Service awaited

ORDER

Challenging the impugned order passed in I.A.No.3 of 2022 in O.S.No.380 of 2021 by the learned I Additional Subordinate Judge, Salem, the Revision Petitioners/plaintiffs had preferred this Civil Revision Petition.

2.The learned counsel for revision petitioners/plaintiffs would submit that the suit cart track absolutely belong to them, in which, the respondents/defendants 1 to 6 have no right and title over the cart track nor they are entitled to use the same. During the trial proceedings, the respondents/defendants 1 to 6 have filed an application to appoint an Advocate Commissioner to measure the suit cart track with the help of Surveyor and to note down the physical features. But, the trial judge without considering the facts and circumstances, erroneously allowed the application and appointed the advocate commissioner, but it is not necessary to prove the dispute between the parties. Therefore, he prayed to set aside the findings of trial judge.

3.The learned counsel for respondents/defendants 1 to 6 would submit that the 'B' schedule suit cart track is the only way for ingress and egress and as on date, the pathway is encroached by the revision petitioners/plaintiffs and they are always attempting to encroach upon the suit cart track. Therefore, the



appointment of Advocate Commissioner to measure the suit cart track and note down the physical features with the help of Surveyor is necessary and the same was rightly allowed by the trial judge. Hence, he prayed to dismiss this Civil Revision Petition.

4. On perusal of records, the fact reveals that with regard to suit cart track, as described by the revision petitioners/plaintiffs in the 'B' schedule, they have claimed that the pathway absolutely belong to them and not belong to the respondents/defendants 1 to 6. They have also made wrong entries in revenue records classifying the suit cart track as “நிலவியல் வண்டிப்பாதை”, based on which, they have made wrongful claim. But, the learned counsel for respondents/defendants 1 to 6 would submit that 'B' schedule cart track, as on date, is the only way to reach their land. So, to prove the encroachment committed by the revision petitioners/plaintiffs, they came forward with the said application and the same was allowed. Furthermore, the report of Advocate Commissioner is necessary, which would enlighten the court to decide the dispute between the parties as well as to find out any encroachment in the pathway.

5. The revision petitioners/plaintiffs contended that it is their pathway, but in the plaint 'B' schedule property, the breadth of pathway was not specifically mentioned. So, to adjudicate the issue with regard to 'B' schedule, the appointment of Advocate Commissioner to measure the same is necessary. Therefore, the findings rendered by the trial judge in I.A.No.3 of 2022 in



O.S.No.380 of 2021 requires no interference. Accordingly, this Civil Revision Petition is dismissed. The Advocate Commissioner is directed to inspect 'B' schedule property as directed by the trial court and submit a report within a period of four weeks from the date of receipt of copy of this order. However, the learned counsel for revision petitioners/plaintiffs would submit that they are having valid title documents from the year of 1960 in order to prove their exclusive right and title over the suit property. Therefore, liberty is granted to them to produce the same before the trial court. The trial judge is directed to consider the same and proceed with the matter without influence of the order passed by this court. No costs. Consequently, connected civil miscellaneous petition is closed.

07-04-2026

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

RPP

To

1. The I Additional Subordinate Judge, Salem.
2. The Tahsildar
Valapadi Taluk Office, Valapadi Tk., Salem Dist.
3. The Village Administrative Officer
Karipatty Village, Valapadi Tk., Salem Dist.



4. The President
Karipatty Panchayathu Office, Kariapatty Post, Valapadi Tk., Salem Dist.
5. The District Collector
Salem District.
6. The Public Prosecutor, High Court, Madras.



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T.V.THAMILSELVI J.

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