



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2026

CORAM

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

CRP No. 2745 of 2026

and

CMP.N0.11377 of 2026

Muthulakshmi
W/O.Karupasamy,
Rest.at No. 4/55 Kondaiyampalayam,
Coimbatore 641 110.

..Petitioner(s)

Vs

1. W.Mercy
W/o.Wilson,
No.3/232 Senthur Swift Garden,
Varthaa Iyengarpalayam,
Kondaiyampalayam,
Coimbatore 641 110.
2. M.Wilson
S/o.Muthu,
No.3/232 Senthur Swift Garden,
Varthaa Iyengarpalayam,
Kondaiyampalayam,
Coimbatore 641 110.

..Respondent(s)

To set aside the order dated 26-06-2025 passed by the
Ld.Prl.Subordinate Judge, Coimbatore in IA.No.4 of 2023 in OS.No.1636 of
2023.

For Petitioner(s):

MR.Kishore Balasubramanian

For Respondent(s):



ORDER

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The Revision Petitioner/Plaintiff challenges the order dated 26.06.2026 passed by the learned Trial Judge dismissing the application filed for appointment of an Advocate Commissioner to inspect the suit property and note down the alleged encroachment made by the defendant.

2. The learned counsel for the petitioner would submit that, in the plaint, specific averments have been made regarding interference and encroachment by the defendant by putting up unauthorized construction. In order to substantiate the same, the petitioner sought appointment of an Advocate Commissioner with the assistance of a qualified Surveyor to measure the property and note the physical features. However, the Trial Court dismissed the application, thereby denying an opportunity to establish the said fact.

3. This Court has considered the submissions and perused the materials available on record.

4. A reading of paragraph No. 8 of the plaint clearly indicates that the plaintiff has alleged encroachment by the defendant. Further, the relief sought in the suit also includes recovery of vacant possession after



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removal of the alleged unauthorized construction. In such circumstances, for effective adjudication of the dispute, particularly with regard to the question of encroachment, the appointment of an Advocate Commissioner is just and necessary. The Commissioner's report, along with the assistance of a Surveyor, would aid the Court in ascertaining the physical features and the extent of alleged encroachment, if any. The Trial Court, without properly appreciating the necessity of such an exercise, has dismissed the application, which, in the opinion of this Court, is erroneous.

Accordingly, the impugned order is set aside and the Interlocutory Application in I.A.No.4/2023 in OS.NO.1636 of 2023 stands allowed. The Trial Court is directed to appoint an Advocate Commissioner, preferably with the assistance of a qualified Surveyor, to inspect the suit property, measure the same, and file a report in accordance with law, and thereafter proceed with the suit expeditiously.

With the above observation and direction, this Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

29-04-2026

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



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T.V.THAMILSELVI, J.

JRS

To
The Principal Subordinate Judge, Coimbatore

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