



WEB COPY

CRP No. 2111 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. 2111 of 2025
AND CMP NO. 12290 OF 2025**

Thilagavathi

..Petitioner(s)

Vs

1. Vijayamaran
2. Tamizhgeetha Kovur Ayya

..Respondent(s)

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.03.2025 passed in IA No.384/2024 in OS No.15/2018 by the Hon'ble Principal Subordinate Judge, Tindivanam, Villupuram District and pass such other suitable orders as this Honble Court.

For Petitioner(s): Mr.S.S.Rajesh

For Ms.R.Nandhini

For Respondent(s): Ms.K.Indumathy Venkatesh
For R2



ORDER

Challenging the impugned order passed in I.A.No.384 of 2024 in O.S. No.15 of 2018 dated 21.03.2025 on the file of the Principal Subordinate Court, Tindivanam, Villupuram District, the plaintiff has preferred the present revision petition.

2. The plaintiff filed an application before the trial court to scrap the previous Advocate Commissioner's report and to appoint new Advocate Commissioner to measure the property with the help of Surveyor, but the trial judge has dismissed the application stating that the case is under the stage of cross examination of PW1 and the suit is of the year 2018 and reason to scrap the report was also not justifiable, as sufficient opportunity was already given at the time of appointment of an Advocate Commissioner and therefore, the trial judge dismissed the application. Aggrieved over the same, the plaintiff has preferred the present revision petition.

3. The learned counsel for the revision petitioner submits that the petitioner filed the suit for the relief of declaration and other consequential reliefs against the defendants. Pending suit, the defendants have filed the application to appoint an Advocate Commissioner in I.A. No.58 of 2020 praying to measure the Plot Nos.112 and 113 with the help of the Surveyor, Village Administrative Officer and to submit the report. Accordingly, the Advocate Commissioner was appointed and notice was given to both the parties



wherein the learned counsel for the plaintiffs submits that counsel on record is not continuing the proceedings and they want to engage another counsel.

Therefore, they need 10 days time and to that effect they sent notice to the Advocate Commissioner. Therefore, the plaintiff did not accompany the new Advocate Commissioner while he measured the property. However, the defendants appeared and cooperated for executing the commissioner's warrant. Aggrieved over the same, the revision petitioner / plaintiff has preferred this revision.

4. The learned counsel submits that since she filed the suit for declaration, she is the right party to accompany with the Advocate Commissioner. But since it was Covid period and their counsel also has not been cooperating with the earlier counsel, she required ten days time but the Advocate Commissioner did not consider the same and executed the warrant.

5. On perusal of the Advocate Commissioner's Report, it also reveals that ten days time required by the plaintiff, though the letter was received by him belatedly. But immediately after a week notice, the Advocate Commissioner executed the warrant with the help of the surveyor. At that time, the defendants accompanied and Plot Nos.112 and 113 was measured along with the surveyor and now the report was filed. The fact also reveals that at the time of commissioner's report, the plaintiff had accompanied. However, she already respond in the notice issued by the commissioner and she sought for ten days



time. In the meanwhile, the commissioner has executed the warrant. Admittedly the suit is of the year 2018. Since the revision petitioner / plaintiff approached the court for the relief of declaration, earlier opportunities were given but the counsel for the respondents / defendants raised objections stating that they purposely dragged on the proceedings. She has not taken any steps to measure the property. Therefore, the defendants filed an application to appoint an Advocate Commissioner and the property was also measured by the Advocate Commissioner with the help of the surveyor and proper notice also given and she purposely avoided. But the fact also reveals that she gave a reply to the notice given by an Advocate Commissioner and needed ten days time to engage new counsel, but it has not been considered and to give one more opportunity is just and necessary. Therefore, earlier report is ordered to be stayed and as on date no trial was began and the findings of the trial judge is also set aside. The trial court is directed to appoint fresh Advocate Commissioner at the cost of the plaintiff. The Advocate Commissioner is directed to measure the property by giving notice to both the counsels and submit the report within a period of four weeks from the date of his appointment. The trial judge is also directed to dispose of the case as early as possible.



6. Accordingly, this Civil Revision Petition is Allowed. The order passed in I.A. No.384 of 2024 in O.S. No.15 of 2018 dated 21.03.2025 on the file of the Principal Subordinate Court, Tindivanam, Villupuram District, is set aside.

No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

07-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MTL

To

1. The Principal Subordinate Court, Tindivanam, Villupuram.



WEB COPY

CRP No. 2111 of 2



T.V.THAMILSELVI J.

MTL

**CRP No. 2111 of 2025
AND
CMP NO. 12290 OF 2025**

07-04-2026