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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 3394 of 2025
and
CMP No. 18572 of 2025

Case QR

CNR:{HCMA011664362025}

1.N.Gopinath,

2.P.Ananth,

..Petitioners

Vs

1.A.Sivasakthi,

2.P.Arumugam,

3.The District Collector,
Kallakurichi District,
Kallakurichi.

4.The District Registrar,
Kallakurichi District,
Kallakurichi.

5.The Tahsildar,
Chinna Salem Taluk,
Kallakurichi District.

6.The Sub Registrar,
Chinna Salem and Taluk,
Kallakurichi District.

7.The Taluk Head Surveyor,
Chinna Salem Taluk,
Kallakurichi District.

..Respondents

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PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order and decree passed in I.A.No.859 of 2022 in O.S.No.737 of 2022 dated 25.04.2025 by the Principal Subordinate Court, Kallakurichi.

For Petitioners : Mr. S.B.Viswanathan

For Respondents : Mr. S.J.Raja Janakiraman for R1 and R2
Mrs.D.Chitra Maragatham, Government Advocate for R3 to R7

ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decretal order dated 25.04.2025 passed in I.A.No.859 of 2022 in O.S.No.737 of 2022 on the file of the Principal Subordinate Court, Kallkurichi, wherein the application filed by the 1st and 2nd respondents/plaintiffs under Order XXVI Rule 9 of Civil Procedure Code to appoint an Advocate Commissioner to note down the physical features, to measure the property and submit a report before the Court along with the plan, came to be allowed by the Court below.

2. Heard the learned counsel on either side, perused the materials available on record and carefully gone through the order passed by the Court below.

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3. The 1st and 2nd respondents/plaintiffs filed the suit in O.S.No.737 of 2022 seeking for the relief of declaration of title and permanent injunction. The plaintiffs filed I.A.No.859 of 2022 for appointment of an Advocate Commissioner to inspect and note down the physical features and to submit a report along with the plan. The Court below has entertained the said application and appointed an Advocate Commissioner. Aggrieved by the same, the present revision has been filed before this Court.

4. In the considered view of this Court, the plaintiffs have filed the said suit seeking for the relief of declaration and permanent injunction. In view of the same, the Court below ought to have first recorded the evidence of both sides and towards the end, the Court should have seen if appointment of an Advocate Commissioner is necessary for an effective disposal of the suit. In the case in hand, the Court below has adopted the reverse process.

5. This Court is repeatedly holding that it has become a trend for parties to file an application for appointment of an Advocate Commissioner even at the outset and build up the case based on the report. This practice has been deprecated by this Court repeatedly. The Trial Court must keep in mind that appointment of an Advocate Commissioner is warranted only if the report helps the Trial Court to effectively dispose of the suit. The report of an Advocate Commissioner at the best can only be a corroborative piece of evidence which

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will be considered along with the evidence that is recorded from both sides.

6. In view of the above, the Court below is directed to record the evidence of both sides and make progress in the suit. If ultimately, on appreciation of evidence, if the Court below is of the view that the report of an Advocate Commissioner will help the Court to effectively dispose of the suit, at that point of time, the Court can take a decision in this regard.

7. In the light of the above discussion, the order passed by the Court below in I.A.No.859 of 2022 in O.S.No.737 of 2022 on the file of the Principal Subordinate Court, Kallkurichi is set aside for the present. The Court below shall keep in mind the above observations made by this Court and proceed further with the suit and towards the end, decide whether the appointment of an Advocate Commissioner is warranted for an effective disposal of the suit.

8. In result, this Civil Revision Petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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N.ANAND VENKATESH J.

ksk

To

1. The Principal Subordinate Court, Kallakurichi.
2. The District Collector,
   Kallakurichi District, Kallakurichi.
3. The District Registrar,
   Kallakurichi District, Kallakurichi.
4. The Tahsildar,
   Chinna Salem Taluk, Kallakurichi District.
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