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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. 3444 of 2025
and
CMP No. 18764 of 2025

CNR:{HCMA011690452025}

Case QR

Lawrence Michele

..Petitioner

Vs

T.A.Raja

..Respondent

PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 30.06.2025 made in I.A.No.01 of 2025 in O.S.No.55 of 2024 on the file of the learned District Munsif Judge, Udhagamandalam.

For Petitioner: Ms. R.Gouri

For Respondent: Ms. Avanthikavasu

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ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decretal order dated 30.06.2025 passed in I.A.No.01 of 2025 in O.S.No.55 of 2024 on the file of the learned District Munsif Judge, Udhagamandalam, wherein the application filed by the petitioner/plaintiff for appointment of an Advocate Commissioner to note down the physical features, measure the property and to fix the boundaries and submit a report along with the plan, came to be dismissed by the Court below.

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

3. The petitioner/plaintiff filed the suit in O.S.No.55 of 2024 seeking for the relief of mandatory injunction to remove the alleged encroachment made by the defendant.

4. The petitioner/plaintiff filed I.A.No.1 of 2025 under Order XXVI Rule 9 of CPC to appoint an Advocate Commissioner and to submit a report.

5. The Court below has dismissed the application on the ground that the

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said application is not maintainable since it is in the nature of gathering evidence. Aggrieved by the said order, the present revision has been filed before this Court.

6. When the matter came up for hearing today, it is brought to the notice of this Court that the suit is now at the stage of recording evidence on the side of the defendant.

7. In the present case, the parties must be first allowed to let in evidence. Ultimately, if the Court below considers that appointment of an Advocate Commissioner would be required for an effective disposal of the suit, such a decision can be taken at the end after considering the evidence let in by both sides. The report of an Advocate Commissioner by itself cannot be the basis for dealing with the suit and granting the relief and such a report is only another piece of evidence which will be considered by the Court along with the evidence recorded from both sides.

8. In the light of the above discussion, the order passed by the Court below is sustained and the Court below shall proceed further to record the evidence of witnesses and take a decision regarding the appointment of Advocate Commissioner in the light of the observations made *supra*.

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9. In result, this Civil Revision Petition is disposed of in the above terms and there shall be a direction to the learned District Munsif Judge, Udhagamandalam, to dispose of the suit in O.S.No.55 of 2024 within a period of **four (4)** months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

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

ksk

To
The District Munsif Judge, Udhagamandalam

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N.ANAND VENKATESH J.

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