



WEB COPY

CRP No. 3958 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP Nos. 3958 & 3959 of 2022

AND

CMP NO. 20617 OF 2022

M.P.Sripathy

..Petitioner in both
C.R.P(s)

Vs

1. O.Vijayakumar
S/o.Ollappan
2. O.Loganathan
3. Nanjundappan
4. R.Velladhiyappan
5. R.Suresh

..Respondent in both
C.R.P(s)

Prayer in CRP No. 3958 of 2022 : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Order dated 06-07-2022 made in I.A.No.2 of 2021 in I.A.No.40 of 2018 in O.S.No.66 of 2016 on the file of the District Munsif, Sathyamangalam.

Prayer in CRP No. 3959 of 2022 : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Order dated 06-07-2022 made in I.A.No.1 of 2021 in O.S.No.66 of 2016 on the file of the District Munsif, Sathyamangalam.



For Petitioner(s): Ms.M.Abinu Monisha
(in both C.R.Ps)

For Respondent(s): Mr.M.Roshan Atiq
(For R1 & R2)
(in both C.R.Ps)

No appearance
(For RR3 to R5)

COMMON ORDER

The Civil Revision Petition in C.R.P.No.3958 of 2022 has been filed to set aside the Order dated 06-07-2022 made in I.A.No.2 of 2021 in I.A.No.40 of 2018 in O.S.No.66 of 2016 on the file of the District Munsif, Sathyamangalam and C.R.P.No.3959 of 2022 has been filed to set aside the Order dated 06-07-2022 made in I.A.No.1 of 2021 in O.S.No.66 of 2016 on the file of the District Munsif, Sathyamangalam.

2. Heard Ms.M.Abinu Monisha, learned counsel for the petitioner and Mr.M.Roshan Atiq, learned counsel for respondents 1 and 2.

3. The learned counsel for the petitioner would submit that originally the respondents 2 and 3 owned an extent of 2.45 acres, of which the petitioner had purchased 2.25 acres by a sale deed executed by the fifth respondent as the Power of Attorney of the third and fourth respondents on 11.03.2013.



Thereafter, the fifth respondent sold an extent of 35.25 cents in favour of the first and second respondents. As the sale was beyond the holdings of the third and fourth respondents, the petitioner had instituted a suit against the respondents, seeking for a direction to survey the suit property and declare the title of the property in the suit schedule and to direct respondents 1 and 2 to hand over six cents of land that they had encroached.

4. In the said suit, on the instance of the petitioner, an Advocate Commissioner was appointed, who had also filed a report, to which objections had been filed by the petitioner, as the warrant had not been properly executed. The trial in the case was over and the matter was listed for arguments, at which time it had been noted that it would be proper for appointing a fresh Advocate Commissioner. Hence, the petitioner had taken out an application to reopen the case and re-issue the warrant to a Senior Advocate as Advocate Commissioner for noting down the features of the property. The Court, without considering the lawful claim of the petitioner, had dismissed the applications.

5. The learned counsel for the petitioner would further submit that having appointed an Advocate Commissioner earlier, the Court below was also not correct in rejecting the petitioner to substantiate her case based upon documents and evidence, as the suit is only for a permanent injunction and not otherwise. She would submit that the Court had totally misconstrued the suit as one for



bare injunction, whereas the suit had also been for declaration of title and removal of encroachment made by respondents 1 and 2. Hence, she seeks the indulgence of this Court.

6. Countering her arguments, Mr.Roshan Atiq, learned counsel for the respondents 1 and 2, would submit that the suit was instituted in the year 2016, in which an Advocate Commissioner was appointed and a report came to be filed as early as in the year 2018. Thereafter, the trial was also concluded and the matter was posted for arguments, at which stage the present applications were filed. He would submit that the present applications were filed even without a relief to strike off the earlier Advocate Commissioner's report and without cross-examining the Advocate Commissioner to substantiate that the report is not proper. Further, when the petitioner claims title to the property, it is for the petitioner to substantiate the title and he cannot be allowed to collect evidence by appointing an Advocate Commissioner. Hence, he seeks this Court to dismiss the revision petitions.

7. I have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

8. Admittedly, in the suit filed by the petitioner, at the instance of the petitioner, an Advocate Commissioner was appointed, who had also filed his



report as early as in the year 2018. Even though the petitioner had filed objections to the report, the petitioner had not attempted to cross-examine the Advocate Commissioner. Further, as rightly pointed out by the learned counsel appearing for the respondents 1 and 2, without seeking to scrap the earlier Advocate Commissioner's report, which is part of the record, filing a fresh application on the ground that the earlier Advocate Commissioner had not properly executed the warrant properly, that too after the conclusion of the trial and after three years from the date of filing of the report, is wholly unsustainable.

9. For the aforesaid reasons, I do not find any merits in the revision petitions and accordingly, both the revision petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08-04-2026

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

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To

The District Munsif, Sathyamangalam.



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K.KUMARESH BABU J.

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