



WEB COPY

CRP No. 4236 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

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

CRP No. 4236 of 2024

AND

CMP NO. 23550 OF 2024

A.Kandiappan
S/o.Arunachala Gounder,
Residing at No.2/91, Perumal Koil Street,
Vadachithoor Village, Pollachi Tk., Now
Kinathukadavu Tk.,

..Petitioner(s)

Vs

Palanisamy (died)

1. Thirumurthy
S/o.Marappa Gounder,
Vadachithoor Post, Kinathukadavu Via,
Kinathukadavu Tk.
2. Gopalakrishnan
S/o.Palanisamy,
Residing at No.2/91, Perumal Koil Street,
Vadachithoor Village, Kinathukadavu Tk.,
3. Sathyabama
D/o.Late Palanisamy, W/o.Dharmaraj,
Residing at No.2/91, Perumal Koil Street,
Vadachithoor Village, Kinathukadavu Tk.,
4. Shanthi
D/o.Late Palanisamy, W/o.Balasubramanian,
Residing at No.2/91, Perumal Koil Street,
Vadachithoor Village, Kinathukadavu Tk.,

..Respondent(s)

**PRAYER**

Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order made in IA.No.1175/2015 in IA.No.2336/2008 in OS.No.369/2008, on the file of the Principal Dist.Munsif Munsif, Pollachi, dated 25-07-2024.

For Petitioner(s): Mr.C.Veera Raghavan

For Respondent(s): Mr. S.Prabhu for R1
R2 To R4 - Service Awaited

ORDER

Challenging the impugned order passed in I.A.No.1175 of 2015 in I.A.No.2336 of 2008 in O.S.No.369 of 2008 by the learned Principal District Munsif, Pollachi, the Revision Petitioner/defendant had preferred this Civil Revision Petition.

2. The learned counsel for Revision Petitioner would submit that immediately after the filing of the Commissioner's report in I.A.No.2336 of 2008, he filed an application in I.A.No.1175 of 2015 for giving a direction to the same Commissioner to re-visit the property along with the Surveyor for the reason that on perusal of Commissioner's report, the plan of Surveyor was erroneously drawn without showing the encroachment said to be committed by the 1st respondent/plaintiff, which was shown at the time of inspection. Therefore, he wanted to re-issue the warrant to the same Advocate Commissioner. But, the trial judge erroneously dismissed the said application holding that when the suit was filed in the year 2008, at the commencement of trial, to drag on the proceedings, he came forward with the said application. The



learned counsel would further submit that immediately after the Advocate Commissioner's report, he filed that application in the year 2015, but the said application was not disposed of as early as possible. Hence, he prayed to set aside the findings of trial judge.

3. The learned counsel for 1st respondent/plaintiff would submit that now at the time of commencement of P.W.1 cross and the trial has also begun, he filed the application seeking a direction to the same Commissioner to re-visit the property without assigning any reason. He would also submit that after lapse of six years from the date of the said Commissioner's report, he wanted the Advocate Commissioner to re-visit for the very same purpose. Therefore, the trial judge has rightly dismissed the said application. Hence, he prayed to dismiss this Civil Revision Petition.

4. Heard and considered rival submissions made on either side and perused the materials available on record.

5. Considering both side submissions, the fact reveals that the relief of permanent injunction was claimed by the 1st respondent/plaintiff in the year 2008 and all these years, the suit is pending due to non-availability of Presiding Officer of that Court and now, the trial has begun. Admittedly, the Advocate Commissioner was appointed and with the help of Surveyor, he measured the property and submitted the report. Now, the revision petitioner/defendant has found that there is a discrepancy in the Commissioner's report. Hence, he wanted to re-visit the property, for which, he had filed the application in the



year 2015, which shows that immediately after the filing of the Advocate Commissioner's report, he filed the said application. So, to give one more opportunity, this Court is inclined to set aside the findings rendered in I.A.No.1175 of 2015 in I.A.No.2336 of 2008 in O.S.No. 2336 of 2008 by the learned Principal District Munsif, Pollachi and the application in I.A. No.1175 of 2015 is allowed. At the cost of revision petitioner/defendant, the Advocate Commissioner is directed to re-visit the property, measure the property with the help of Surveyor and to submit the report within a period of four weeks from the date of receipt of copy of this order. Thereafter, the trial judge is directed to proceed with the matter and dispose the case within a period of three months. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected civil miscellaneous petition is closed.

15-04-2026

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

RPP

To

The Principal District Munsif, Pollachi.



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T.V.THAMILSELVI J.

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