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CRP No. 4052 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

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THE HONOURABLE MR.JUSTICE S. SOUNTHAR

CRP No. 4052 of 2025
C.M.P.No.20959 of 2025

1. C.Thangavelu

2. T.Renugadevi

Petitioner(s)

Vs

Suguna

Respondent(s)

PRAYER :- Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Order dated 19.07.2025 passed in IA No. 5 of 2025 in OS No. 585 of 2011 on the file of the II Additional District Munsif Court, Coimbatore, and thereby allow the CRP and thus render justice.

For Petitioner(s): M/s.R.Divyaprethika



ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court allowing the application filed by the respondent seeking appointment of Advocate Commissioner to measure the suit property.

2.The respondent herein filed a suit for bare injunction and also mandatory injunction. It is the specific case of the respondent that the petitioners / defendants encroached portion of the suit item No.2 and put up some construction. Originally the suit was filed for bare injunction. Subsequently, the plaint was amended by including prayer for mandatory injunction to remove the construction put up in the encroached portion. After amendment the instant application has been filed seeking appointment of Advocate Commissioner to measure the property with reference to the title deeds and find out the exact extent of the encroachment made by the petitioners herein. The said application was allowed by the trial Court. Aggrieved by the same, the petitioners are before this Court.

3.The learned counsel for the petitioners would submit that the present application has been filed by the respondent belatedly. It is further submitted that the plaint was amended to include prayer for mandatory injunction in the year 2018 and an instant application has been filed only in the year 2025 ,nearly after seven years. Therefore, the trial Court ought not have allowed the



application. Further, it is submitted that after completion of the trial, this application has been filed by the petitioners just to drag on the suit proceedings.

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4. Heard the learned counsel for the petitioners and perused the materials available on record.

5. It is not in dispute the respondent seeks mandatory injunction to remove the construction put up by the petitioners allegedly encroaching portion of the property in item No.2. Whenever a decree for mandatory injunction is sought for the exact measurement of the construction shall be mentioned in the plaint, in order to avoid any complication at the time of execution. When the properties encroached by the opposite party and construction has put up, it may not be possible for the plaintiff / respondent herein to enter the property and measure the exact measurement. Therefore, the plaintiff has no other option but to seek the assistance of Court to appoint the Advocate Commissioner for local inspection.

6. The trial Court rightly held in a suit for mandatory injunction the exact measurement of the encroached portion shall be mentioned, therefore, appointment of Advocate Commissioner to measure the property is absolutely necessary and allowed the application filed by the respondent. I do not find any irregularity or illegality in the order passed by the trial Court. Accordingly, the



present Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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S.SOUNTHAR J.

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To:-
II Additional District Munsif
Coimbatore.

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