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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition No.5352 of 2026
and
C.M.P.No.23214 of 2026

Case QR

CNR: {HCMA01195139202 6}

Chithradevi
W/o.Dhanasekaran

..Petitioner

Vs

Senthilkumar
S/o.Semmalai

..Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 27.04.2026 passed by the Additional District Munsif Court, Attur, in I.A.No.03 of 2025 in O.S.No.12 of 2025.

For Petitioner : Mr.L.Mouli

For Respondent : Mr.S.Viswanathan
for M/s.Dass & Viswa Associates

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ORDER

This civil revision petition has been filed under Article 227 of the Constitution of India against the order dated 27.04.2026 passed in I.A.No.3 of 2025 in O.S.No.12 of 2025 by the Additional District Munsif Court, Attur, wherein the application filed by the respondent/plaintiff under Order XXVI

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Rule 9 CPC for appointment of an Advocate Commissioner to conduct survey and measure the property and submit a report before the Court below, came to be allowed by the Court below.

2. Heard learned counsel on either side and carefully perused the materials available on record. This Court also went through the impugned order.

3. The respondent/plaintiff filed the suit in O.S.No.12 of 2025 seeking the relief of permanent injunction restraining the petitioner/defendant from in any manner disturbing the respondent/plaintiff's peaceful possession and enjoyment of the suit property. The respondent/plaintiff filed I.A.No.3 of 2025 in O.S.No.12 of 2025 for appointment of an Advocate Commissioner on the ground that the petitioner/defendant is also claiming right over S.No.64/2B, which is on the eastern side of the suit property, based on the unregistered sale deed and an attempt was made to trespass into the said property. Even the attempt taken by the respondent/plaintiff to survey the property with the help of a surveyor was defeated by the petitioner/defendant. Therefore, in order to get a clear visibility of the property belonging to the respondent/plaintiff and the property that is claimed by the petitioner/defendant, the application was filed for appointment of an Advocate Commissioner. The Court below allowed the application by order dated 27.04.2026 on the ground that the report of the Advocate Commissioner will enable the Court to properly appreciate the suit

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property along with the extent and boundaries and pass a final judgment. Aggrieved by this order, the petitioner/defendant has filed the present revision.

4. In the considered view of this Court, the respondent/plaintiff is seeking for the relief of permanent injunction based on a title document and also by relying upon the revenue records. If that is so, the respondent/plaintiff has to establish his right through those documents and if that is done, the relief of permanent injunction will automatically follow. It is unnecessary for an Advocate Commissioner to go and visit the property and conduct survey and submit a report for this purpose. The Court below failed to see if such a report is sought for from the Advocate Commissioner, it virtually amounts to gathering evidence, which is beyond the scope of Order XXVI Rule 9 CPC. In view of the above, the order passed by the Court below suffers from perversity warranting interference of this Court.

5. Accordingly, the order dated 27.04.2026 passed in I.A.No.3 of 2025 in O.S.No.12 of 2025 by the Additional District Munsif Court, Attur, is set aside. It is made clear that the respondent/plaintiff shall establish his right over the suit property through the title document and revenue records and the same will be considered on its own merits and in accordance with law.

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N.ANAND VENKATESH, J.

gm

In the result, this civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

04-11-2026

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

To
The Additional District Munsif Court,
Attur.

Civil Revision Petition No.5352 of 2026

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