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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Revision Petition No.6848 of 2026
and
C.M.P.No.29425 of 2026

CNR: {HCMA012049312026}

R.Arivuchelvam
S/o.Rathnam Chettiar

..Petitioner

Vs

1. S.Jayaprakash
   S/o.Sivanandam

2. S.Chenthilampatthi,
   S/o.Sivanandam

3. G.Lalitha,
   W/o.A.Govindarajan

4. N.Visalakshi,
   W/o.V.Soundar Rajan

5. M.Savithri,
   W/o.A.Manoharan

..Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the Docket order dated 04.06.2026 made in O.S.No.2974 of 2012 on the file V Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.K.S.Karthik Raja

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This civil revision petition has been filed under Article 227 of the Constitution of India against the docket order dated 04.06.2026 passed in O.S.No.2974 of 2012 on the file of V Additional District Munsif Court, Coimbatore, wherein the Court below refused to entertain the application filed by the petitioner to cross-examine the Advocate Commissioner.

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

3. The respondents 1 and 2 are the plaintiffs, who filed the suit in O.S.No.2974 of 2012 seeking for the relief of permanent injunction. The petitioner also filed a suit in O.S.No.224 of 2013 seeking for the relief of declaration, permanent injunction and mandatory injunction. Both suits are tried together by the trial Court.

4. An application was filed for appointment of Advocate Commissioner and the said application was allowed and the Advocate Commissioner conducted survey, measured the property and submitted a report before the trial Court. The petitioner filed I.A.No.3710 of 2013 in O.S.No.224 of 2013 to scrap the report of the Advocate Commissioner and to appoint a fresh Advocate

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Commissioner to note down the physical features of the suit property with the assistance of a surveyor and fix the boundaries and to submit a report before the Court. This application came to be dismissed. Aggrieved by the same, the petitioner filed C.R.P.No.2980 of 2014 before this Court and this Court disposed of the revision by order dated 14.10.2024 and the relevant portion is extracted hereunder:

> "6. It is the grievance of the petitioner that none of the objections raised by the petitioner were considered by the Court below while passing the order impugned in this Civil Revision Petition. A careful perusal of the impugned order would show that the Court below has not traversed all the objections raised by the petitioner seeking for scrapping the report of the Advocate Commissioner and given its finding on those objections. In my considered view, if the application is filed seeking for scrapping the report of the Advocate Commissioner based on some reasons, the Court should consider those objections and give findings as to whether those objections are sustainable or not. In this case, no such exercise was done by the Court below. Therefore, I am of the view that the order rejecting the application filed by the petitioner, cannot be sustained. Consequently, the impugned order passed in I.A.No.3710 of 2013 in O.S.No.224 of 2013 is set aside and the matter is remitted back to the trial Court for considering the said application afresh based on the objection raised by the petitioner as well as the counter statement filed by the respondent herein. It is needless to say that this Court has not expressed any view on the merits of the contentions raised by the petitioner and the respondents on the Advocate Commissioner's report. Therefore, the trial Court will consider the application afresh on merits and in accordance with law and pass appropriate orders within a period of thirty days from the date of receipt of a copy of this order. The Civil Revision Petition is disposed of. No costs. The Miscellaneous Petition is closed."

5. Pursuant to the above order, the Court below took up the matter for fresh consideration, allowed the application and appointed a new Advocate Commissioner, however, the earlier report was not scrapped. The new Advocate Commissioner did not file any report and hence, the application was closed. The

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petitioner filed an application to restore the earlier application, which was also dismissed. The petitioner again filed I.A.No.17 of 2016 in O.S.No.224 of 2013 to appoint another Advocate Commissioner and this application was closed in view of the endorsement made by the petitioner on 13.10.2023. While so, the petitioner submitted an application to cross-examine the Advocate Commissioner, who had earlier filed the report. This application was rejected by the Court below on the ground that such an attempt is being made by the petitioner only to drag on the proceedings.

6. In the considered view of this Court, the initial grievance of the petitioner is that the report filed by the Advocate Commissioner was not in order and therefore, the petitioner had sought for scrapping that report. The application came to be dismissed and this Court disposed of the revision by permitting the petitioner to agitate the matter once again before the trial Court. For some reason, the report was not scrapped, however, a new Advocate Commissioner was appointed to conduct survey and to submit a report. It is not known as to why the new Advocate Commissioner did not submit a report. The application was closed and the subsequent application filed to reopen the said application was also closed. This process came to an end as early as on October'2023. After nearly 3 years, the petitioner is now trying to call the Advocate Commissioner, who filed the earlier report in the year 2014 for cross-examination. The Court below rightly held that the case has been going back

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and forth, revolving entirely around the report of the Advocate Commissioner. If the petitioner was aggrieved by the fact that the new Advocate Commissioner, in spite of being appointed, did not conduct survey and submit a report, further proceeding should have been initiated by the petitioner, however, the petitioner abandoned prosecution of that petition. At the fag end, the petitioner wants to cross-examine the Advocate Commissioner, who filed the earlier report 12 years back. As rightly held by the Court below, it is nothing but an attempt to drag on the proceedings endlessly. It must be borne in mind that the report of the Advocate Commissioner is merely an another piece of evidence and the petitioner has also submitted objections for the report of the Advocate Commissioner. That will sufficiently take care of the interest of the petitioner. In view of the same, this Court is not inclined to interfere with the order passed by the Court below.

Accordingly, this civil revision petition is dismissed. There shall be a direction to the V Additional District Munsif Court, Coimbatore, to dispose of O.S.Nos.2974 of 2012 and 224 of 2013 within a period of three (3) months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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N.ANAND VENKATESH, J.

gm

To

The V Additional District Munsif Court,
Coimbatore.

Civil Revision Petition No.6848 of 2026

30-10-2026

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