



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**CRP No. 4336 of 2023
C.M.P.No.26361 of 2023**

Subramaniam

..Petitioner(s)

Vs

V. Thirunavukarasu

..Respondent(s)

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, pleaded to set aside the Fair and Final Order passed in I.A.No.5 of 2023 in I.A.No.3 of 2020 in O.S.No.114 of 2020 on the file of 2nd Additional District Munsif Court, Erode, dated 20.09.2023 and allow the CRP.

For Petitioner(s):

Mr.A.Sundara Vadhanan

For Respondent(s):

Mr.V.S. Kesavan

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by petitioner seeking re-issue of warrant to the Advocate Commissioner to measure the suit properties with reference to the title deed and revenue documents of both the parties.

2.Earlier the respondent herein filed an application in I.A.No.3 of 2020 seeking appointment of Advocate Commissioner to note down the physical features. Thereafter, a memo was filed by the respondent seeking direction to



Advocate Commissioner to measure the suit property with the assistance of qualified surveyor. In the memo filed by the respondent, it was clearly mentioned, the property shall be measured with reference to the revenue records and title deeds of respective parties. The said application along with memo was ordered. The Advocate Commissioner visited the suit property with the qualified surveyor and filed his report. The petitioner herein filed objection stating that Advocate Commissioner failed to measure the property with reference to his title deed. He also filed instant application I.A.No.5 of 2023 seeking re-issue of warrant to the Advocate Commissioner with direction to measure the suit property with reference to title deeds of both the parties. The said application was dismissed by the trial Court on the ground that petitioner who was present at the time of local inspection failed to give any memo of instruction to the Advocate Commissioner to measure the property with reference to his title document. Aggrieved by the said order, petitioner has come before this Court.

3.The learned counsel for the petitioner would submit the suit is for declaration and recovery of possession. In view of the title dispute involved in the suit unless the properties are measured with reference to the title deeds of both the parties, the real controversy cannot be resolved.



4. The learned counsel for the respondent would submit that the petitioner who was present at the time of local inspection failed to furnish his title deeds to the Advocate Commissioner. Therefore, he is not entitled to file application seeking re-issue of warrant.

5. A perusal of the Advocate Commissioner's report would indicate he measured the property only with reference to title deed of the respondent and it is clear he has not measured the property with reference to the title deed of the petitioner. The respondent in his memo dated 23.09.2020 filed in I.A.No.3 of 2020 made a request to the Court to issue direction to the Advocate Commissioner to measure the property with reference to the revenue records and title deeds of respective parties and the said memo was ordered on 05.10.2020. Therefore, the Advocate Commissioner was directed by the Court to measure the property with reference to the title documents of both the parties. However, he failed to measure the property with reference to the title document of both the parties but property was measured only with reference to the title document of respondent. Therefore, there is a force in the contention raised by the petitioner and the warrant shall be re-issued to the Advocate Commissioner to measure the suit property with reference to the title deeds of both the parties. Since the suit involves a title dispute, it cannot be resolved unless the properties are measured with reference to the title deeds of both parties.



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S.SOUNTHAR, J.

6.In view of the same, the impugned order is set aside and I.A.No.5 of 2023 stands allowed by directing the trial Court to re-issue warrant to the Advocate Commissioner. The Advocate Commissioner shall measure the property with reference to the title documents and revenue records of both the parties and file his report. The Advocate Commissioner shall complete the inspection and fresh report shall be filed within six weeks from the date of receipt of copy of this order.

7.Accordingly, the Civil Revision Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19-02-2026

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

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The District Munsif, Erode.

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