



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 596 of 2026
C.M.P.No.3314 of 2026

Natarajan

..Petitioner(s)

Vs

1. Manicka Mudali
2. Meganathan
3. Mani

..Respondent(s)

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the fair and final order dated 15.04.2025 made in I.A.No.2 of 2025 in O.S.No.145 of 2019 on the file of Special Subordinate Judge for L.A.O.P. Cases, Arakkonam Ranipet District Court.

For Petitioner(s): Mr.K.Venkatasubban
for M/s.Sarvabhauman Associates

ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner to note down the existence of water channel in suit B schedule property.



2.The petitioner herein filed a suit seeking declaration of easementary right to take water through B schedule channel situate on the west of suit A schedule properties and for permanent injunction restraining the respondents / defendants from interfering with petitioner's alleged right to take water through B schedule channel. It is specific case of the petitioner that there exist water channel in the suit B schedule property, and the petitioner and his predecessor in interest have been using the same for the purpose of taking water to the property situated in A schedule property.

3.The defendants filed written statement and sought dismissal of the present suit on the ground of *res judicata*. It is the case of the respondents / defendants that petitioner earlier filed a similar suit in O.S.No.52 of 2005 on the file of District Munsif Court, Arakkonam and the said suit was dismissed on merits on 05.10.2013. Thereafter, petitioner filed an appeal before the Sub Court, Arakkonam, in A.S.No.126 of 2014 and the said appeal was also dismissed on 15.09.2014, observing that petitioner failed to establish the existence of water channel. The said judgment passed by the appellate Court had attained finality. Therefore, according to the respondents the present suit is barred by *res judicata*, *inter alia*, the respondents also averred in the written statement that there is no water channel in the suit B schedule property as claimed by the petitioner / plaintiff.



4. Since, a dispute has been raised by the defendants with regard to the existence of water channel, the petitioner herein filed instant application seeking appointment of Advocate Commissioner to note down the existence of water channel in the suit B schedule property and the said application was dismissed by the trial Court. Aggrieved by the same, the petitioner has come before this Court.

5. The learned counsel for the petitioner would submit that the respondents disputed by existence of water channel in the suit B schedule property and hence, the trial Court ought to have appointed an Advocate Commissioner to note down the existence of water channel.

6. The judgment passed by the appellate Court in A.S.No.126 of 2014 on the file of Sub Court, Arakkonam, has been marked as Ex.R1 in I.A.No.2 of 2025 in O.S.No.145 of 2019. A perusal of the same would indicate a similar suit has been filed by the petitioner seeking very same relief against first respondent earlier and the said suit was dismissed and appeal filed by the petitioner was also dismissed by observing that petitioner failed to establish existence of water channel in the suit B schedule property. When the earlier suit filed by the petitioner is dismissed on the ground that he failed to establish the existence of water channel by taking steps to appoint Advocate Commissioner for local



inspection, the petitioner is not entitled to seek appointment of Advocate Commissioner to collect evidence in the subsequent suit. The same would

amount to filling up lacuna in the evidence of the petitioner in the earlier suit.

The trial Court rightly referred to the observation made by the first Appellate Court in the earlier round of litigation and dismissed the application filed by the petitioner seeking appointment of Advocate Commissioner. The question with regard to *res judicata* shall be considered by the trial Court at the time of final disposal based on the evidence to be tendered by the parties. With this clarification, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To:-

The Special Subordinate Judge for LAOP Cases.
Arakkonam Ranipet District Court.



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S.SOUNTHAR, J.

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