Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP.No.6156 of 2026

CNR:{HCMA012227042026}

and
CMP.Nos.26637 and 26638 of 2026

Sekar

..Petitioner(s)

Vs

1. Umakarthik
   S/o.G.Umasekaran,
   Rep. by his power agent
   G.Umasekaran M/A 74
   Son Gopalsamy,
   D.No.10 Kambar Street,
   Erode – 638011.

   Valliammal (died).

2. S.N.Ravi

..Respondent(s)

(Cause Title Accepted vide order of Court dated 23.09.2026 made in CMP.No.26440 of 2026 in CRP.SR.No.161576 of 2026)

PRAYER: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order dated 19.06.2026 in I.A.No.4 of 2026 in I.A.No.3 of 2025 in O.S.No.34 of 2008 on the file of the learned II Additional Subordinate Judge, Erode by allowing the present Civil Revision Petition.

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For Petitioner : Mr.S.Mukunth,
Senior Counsel
for M/s.C.Ramaraj

For R1 : Mr.V.S.Kesavan

For R2 : Mr.P.Binno
for M/s.P.T.Ramadevi

ORDER

The Civil Revision Petition is filed challenging order passed by the Trial Court allowing the application field by the respondents seeking police protection for the Advocate Commissioner to execute the warrant.

2. The 1st respondent herein filed a suit for partition against the 2nd respondent and obtained a preliminary decree for partition. Thereafter, the 1st respondent filed an application in I.A.No.3 of 2025 seeking passing of final decree. In the said final decree proceedings, an Advocate Commissioner was appointed to suggest the mode of division. The 1st respondent filed an application in I.A.No.4 of 2026 seeking police help to the Advocate Commissioner to execute the warrant. The said petition is supported by the affidavit of the Advocate Commissioner, wherein it was stated that when he visited the suit property on 06.06.2026 by giving notice to both the parties, he faced resistance from some rowdy elements and hence, he could not measure

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the property and execute the warrant. Based on the said averment in the affidavit filed by the Advocate Commissioner, the 1st respondent sought for police help. The Trial Court by impugned order granted police protection to the Advocate Commissioner to execute the warrant. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner submits that the petitioners are also having right in the suit property and they are in possession of the same, however, they have not been made as a party in the suit as well as in the final decree proceedings. It is also stated that the petitioner filed a separate application seeking their impleadment in the final decree proceedings and the same is pending.

4. It is seen from the records that now in the final decree proceedings, an Advocate Commissioner has been appointed to suggest the mode of division. If the Advocate Commissioner is allowed to measure the subject property and file a report before the Trial Court, the same will not cause any prejudice to the petitioner. The petitioner claims right and possession over the subject property and he also said to have filed an application seeking his impleadment in the final decree proceedings. The plea raised by the petitioner with regard to his

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rights and possession etc., will be considered by the Trial Court in the impleading application filed by him.

5. A mere report filed by the Advocate Commissioner suggesting the mode of division as per the preliminary decree will not cause any prejudice to the petitioner. Therefore, I do not find anything to interfere with the impugned order. In case, based on Advocate Commissioner's report, a final decree is passed and based on the final decree, an application has been filed by any one of the parties to the suit to take delivery of the property, at that stage, the petitioner is entitled to workout his remedy based on his alleged possession. Therefore, the present revision filed by the petitioner is a premature one and the impugned order would not cause any prejudice to the petitioner at this stage. Hence, I do not want to interfere with the impugned order.

6. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

29-10-2026

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

The II Additional Subordinate Court,
Erode.

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S.SOUNTHAR J.

dm

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