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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP No. 6775 of 2026
and CMP No. 29157 of 2026

CNR: {HCMA012440002026}

1. Sampugammal
   W/o Late Krishnasamy,
   Kattuvalavu,
   Thimirikottai,
   Mecheri Village,
   Mettur Taluk,
   Salem District

2. Jothi
   W/o Seenivasan,
   Door No.1/120,
   Peramanur Kattuvalavu,
   Sukkampatti Via,
   Veeranam and Post
   Salem District

3. Alamelu
   W/o Boopathi,
   Kattuvalavu,
   Thimirikottai,
   Mecheri Village,
   Mettur Taluk,
   Salem District

4. Susila
   W/o Sivakumar
   Door No.8/3-20A,
   Nallagoundenvalavu,
   Mecheri Village,
   Mettur Taluk,
   Salem District

..Petitioner(s)

Vs

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1. Arumugam
   S/o Elumalai,
   Res at
   Thimirikottai Kattuvalavu,
   Erankundapatti Post,
   Mecheri Village,
   Mettur Taluk,
   Salem District

2. Pappathi
   W/o Arumugam,
   Res at Thimirikottai Kattuvalavu,
   Erankundapatti Post,
   Mecheri Village,
   Mettur Taluk,
   Salem District

3. Azhagesan
   S/o Arumugam,
   Res at Thimirikottai Kattuvalavu,
   Erankundapatti Post,
   Mecheri Village,
   Mettur Taluk,
   Salem District

4. Ashokumar
   S/o Arumugam,
   Res at Thimirikottai Kattuvalavu,
   Erankundapatti Post,
   Mecheri Village,
   Mettur Taluk,
   Salem District

5. Boopalan
   S/o Arumugam,
   Res at Thimirikottai Kattuvalavu,
   Erankundapatti Post,
   Mecheri Village,
   Mettur Taluk,
   Salem District

..Respondent(s)

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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 12.12.2025 made in IA.No.03 of 2025 in OS.No.64 of 2023 on the file of the District Munsif Court, Mettur, Salem District.

For Petitioner(s): Ms.K.Vijayalakshmi for
M/s.Dass And Viswa Associates

ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India challenging the fair and decreetal order dated 12.12.2025 passed in IA.No.03 of 2025 in OS.No.64 of 2023 on the file of the District Munsif Court, Mettur, Salem District, wherein the application filed by the petitioners/plaintiffs under Order XXVI Rule 9 of C.P.C., for appointment of an Advocate Commissioner to measure the property and to submit a report along with a plan came to be dismissed by the Court below.

2.Heard the learned counsel for the petitioners and carefully perused the materials available on record and this Court also carefully went through the order passed by the Court below.

3.The petitioners are the plaintiffs who filed the suit in OS.No.64 of 2023 seeking for the relief of declaration of title, permanent injunction, mandatory injunction and possession of the property which is alleged to have been encroached upon by the defendants.

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4.An application came to be filed in IA No.3 of 2025 for the appointment of an Advocate Commissioner to inspect and measure the property and to find out the encroachment allegedly made by the respondents/defendants.

5.The Court below dismissed the application mainly on the ground that the nature of relief that has been sought for by the petitioners puts the burden of proof upon them to first establish their title over the property. The same has to be established only through oral and documentary evidence. In view of the same, the Court below came to the conclusion that there was no need to appoint an Advocate Commissioner.

6.In the considered view of this Court, the order passed by the Court below does not suffer from any perversity warranting the interference of this Court. As rightly held by the Court below, the petitioners will have to first prove their case through oral and documentary evidence. If, ultimately, the Court is inclined to grant the relief and it requires the report of the Commissioner to find out the alleged encroachment made by the defendants, at that point of time in order to effectively dispose of the suit, the Court can always appoint an Advocate Commissioner. The present application, filed even at the initial stage, is certainly not maintainable and it tantamounts to an attempt made to gather evidence.

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7.In the light of the above discussion, the order dated 12.12.2025 passed in IA.No.03 of 2025 in OS.No.64 of 2023 on the file of the District Munsif Court, Mettur, Salem District, is hereby confirmed.

8.In the result, this Civil Revision Petition stands dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

28-10-2026

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

SSR

To

The District Munsif Court, Mettur, Salem District.

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N.ANAND VENKATESH, J.

SSR

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