



WEB COPY

CRP No. 5146 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 5146 of 2025

AND

CMP NO. 25963 OF 2025

S.Rajendiran

S/o.Late Sadayappa Reddy,

No.30 Brahaminar Street, Nanmangalam Village,

Melapuram Post, Nemili Tk., Ranipet Dist.

..Petitioner(s)

Vs

1. V.Jayaprakash

S/o.Late Velu Naicker,

Rest.at, No.48, Brahaminar Street,

Nanmangalam Village, Melapuram Post,

Nemili Tk., Ranipet Dist.

2. V.Suresh

S/o.Late Velu Naicker,

Rest.at, No.48, Brahaminar Street,

Nanmangalam Village, Melapuram Post,

Nemili Tk., Ranipet Dist.

..Respondent(s)

PRAYER

Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the order of the Learned District Munsif, Arakkonam, in IA.No.2 of 2024 in OS.No.21 of 2020 dated 11-07-2025.

For Petitioner(s):

Mr.K.S.Purushothaman

For Respondent(s):

Mr.M.Anaimuthuraja

For R1 & R2

**ORDER**

Challenging the impugned order passed in I.A.No.2 of 2024 in O.S.No.21 of 2020 by the learned District Munsif, Arakkonam, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

2. Before the trial court, the Revision Petitioner/plaintiff filed an application under Order 26 Rule 9 r/w Sec.151 of C.P.C. seeking to scrap the advocate commissioner's report and the sketch annexed therewith and also to appoint a fresh advocate commissioner to inspect the suit property as prayed for. On hearing both sides, the trial judge dismissed the application holding that there is no reason assigned to scrap the commissioner's report. So, the application filed by him as such is not maintainable. The trial judge also held that the commissioner has submitted the report by inspecting the property with the help of surveyor and if at all, there is any objection, it can be decided at the time of trial and he can very well examine the advocate commissioner and the same may be considered. Aggrieved over that, the revision petitioner/plaintiff preferred this Civil Revision Petition.

3.The learned counsel for revision petitioner/plaintiff would submit that the plaintiff and the defendants are absolute owners and between their houses, there is a common wall. So, in front side, there was no damages, but on the back



side of the house, the common wall was damaged by the defendants and the same was noted by the commissioner. But, the commissioner is not inclined to submit that report and his report not contended the damages with regard to the common wall on the back side of the house. So, the report of the commissioner is required to be scrapped as he has not properly stated about the damages. But, the trial judge failed to consider the same and erroneously dismissed the application. Hence, he prayed to set aside the findings of trial judge.

4. The learned counsel for respondent/plaintiff would submit that already the commissioner has visited the property and with the help of Surveyor, he inspected the property and elaborately submitted the report, which requires no interference. Hence, the trial judge has rightly dismissed the application and prayed to dismiss this civil revision petition.

5. Heard and considered rival submissions made on either side and perused the materials available on record.

6. Admittedly, there is a common wall between the house of both parties and the houses are dwelling house, but according to the plaintiff, on the back side of the house, there was a common wall, wherein there was damages caused by the defendants, but in the commissioner's report, there is no mentioning about the damages caused on the common wall. Based on the commissioner



report only, the damages can be assigned. Therefore, in order to prove the claim of revision petitioner/plaintiff, he is entitled to take the commissioner for revisitation of property, but not to scrap the earlier report. Accordingly, the Advocate Commissioner is directed to revisit the property at the cost of plaintiff to note down the physical features of the property as well as damages caused on the common wall at the back side of house. To that effect, the objections is considered. Considering that, this court is inclined to set aside the findings rendered in I.A.No.2 of 2024 in O.S.No.21 of 2020 by the District Munsif, Arakkonam and the application in I.A.No.2 of 2024 is partly allowed. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected civil miscellaneous petition is closed.

27-03-2026

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

RPP

To

The District Munsif, Arakkonam.



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T.V.THAMILSELVI J.

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