2026:MHC:4472

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2026

CORAM

THE HON'BLE MR JUSTICE N.ANAND VENKATESH

Civil Revision Petition Nos.7003 & 7005 of 2026
& CMP.Nos.30085 & 30090 of 2026

CNR:{HCMA012442702026}
CNR:{HCMA012442712026}

Case QR Case QR

1. Muthusamy,
   No.5/238,
   Andiyur Village,
   Devanurputhur Village Post,
   Udumalpet Taluk,
   Tiruppur District.

2. Rajammal
   No.5/238,
   Andiyur Village,
   Devanurputhur village Post,
   Udumalpet Taluk,
   Tiruppur District.

...Petitioners in both CRPs

Vs

S.Beena
No.5/290-A,
Andiyur Village,
Devanurputhur Village Post,

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Udumalpet Taluk,
Tiruppur Dt.Tiruppur

...Respondent in both CRPs

PETITIONS under Article 227 of The Constitution of India against the orders dated 26.2.2026 passed respectively in I.A.Nos. 495 & 497 of 2024 in O.S.No.380 of 2018 on the file of District Munsif Court, Udumalpet, Tiruppur District.

For Petitioners: Mr.Sujith.G

COMMON ORDER

These civil revision petitions have been filed under Article 227 of The Constitution of India against the orders dated 26.2.2026 passed respectively in I.A.Nos.495 & 497 of 2024 in O.S.No.380 of 2018 on the file of District Munsif Court, Udumalpet, Tiruppur District (for short, the Court below) wherein the applications filed by the petitioners/defendants to scrap the report of the advocate commissioner and to appoint a fresh advocate commissioner to inspect the suit property and file a report along with a sketch, came to be dismissed.

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2. Heard the learned counsel for the petitioners.

3. This Court has carefully considered the submissions of the learned counsel for the petitioners and perused the materials available on record and more particularly the impugned orders.

4. The respondent, who is the plaintiff, filed the said suit seeking for the relief of mandatory injunction and for permanent injunction. In the said suit, the respondent/plaintiff filed I.A.No.2132 of 2018 seeking to appoint an advocate commissioner and it was allowed and a report was also filed by the advocate commissioner.

5. However, the petitioners/defendants had objections to the said report of the advocate commissioner mainly on the ground that the advocate commissioner failed to state about the house situated in the property of the petitioners/defendants in S.F.No.190/A and that the advocate commissioner had also not properly measured the length, width and extent of the property of the petitioners/ defendants. Apart from that, according to the petitioners/ defendants, the report of the advocate commissioner also did not

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contain the four boundaries of the property of the respondent/ plaintiff in site No.28.

6. Pursuant to that, based on the report of the advocate commissioner, the respondent/plaintiff filed an application for amendment of the plaint and it was stated to have been allowed.

7. The petitioners/defendants apprehended that the entire case was moving in line with the report filed by the advocate commissioner and therefore, filed the present applications seeking to scrap the report of the advocate commissioner and to appoint a fresh advocate commissioner to conduct a survey and submit a report. Those applications were dismissed by the Court below by the impugned orders. Aggrieved by that, the above revisions have been filed before this Court.

8. In the case in hand, the respondent/plaintiff sought for the relief of mandatory injunction and permanent injunction. Like in many other cases, even before the parties let in evidence, straight away, an application was filed for appointment of an advocate

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commissioner and it was allowed, pursuant to which, a report came to be filed. Obviously, one party or the other will have objections to the report of the advocate commissioner.

9. The respondent/plaintiff, taking advantage of the report of the advocate commissioner, filed an application for amendment of the plaint and it was allowed. The petitioners/defendants, who had filed objections to the report of the advocate commissioner, wanted to scrap it and to appoint a fresh advocate commissioner to file a report. The suit is of the year 2018 and this is the only progress that has been made in the past 8 years. Even the trial has not yet commenced.

10. This is the fifth case today where this Court is dealing with an application pertaining to the appointment of an advocate commissioner. In every other case, this Court is able to see that the parties, instead of letting in oral and documentary evidence in the suit, focus on appointment of an advocate commissioner to file a report and that they build their case around the report of the advocate commissioner. This Court is repeatedly deprecating this

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practice and the present case also unfortunately falls under this category.

11. Both the parties are relying upon certain documents and the burden of proof is upon them to first establish through evidence their respective stand taken in the said suit. Only thereafter, the report of the advocate commissioner will come into play. However, for the past 8 years, what had been focussed were only the report of the advocate commissioner, the objections made, the amendment of the plaint and the applications filed for scrapping the report of the advocate commissioner and to appoint a fresh advocate commissioner. The Court below is also mechanically entertaining such applications and there is absolutely no progress in the said suit.

12. In the considered view of this Court, the petitioners/ defendants have already filed objections to the report of the advocate commissioner. If the plaint has been amended, the petitioners/defendants can be allowed to file their additional written statement for the amendment carried out. The Court below can

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proceed further thereafter to record the evidence on both sides. Since the objections have been made to the report of the advocate commissioner, the advocate commissioner can also be examined in the witness box. After this process is completed, the Court below shall assess the evidence let in by both sides and also the report of the advocate commissioner and see if it requires any further clarification.

13. At the end of trial, while dealing with the report of the advocate commissioner, the Court below broadly has three options. The first option is to act upon the report of the advocate commissioner. The second option is to scrap the report of the advocate commissioner and appoint a fresh advocate commissioner to conduct a survey. The third option is to seek for clarification by issuing warrant to the same advocate commissioner by specifically defining the scope of re-inspection. The Court below shall keep in mind all the above observations made without being swayed by the impugned orders dated 26.2.2026 passed in I.A.Nos.495 and 497 of 2024.

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14. The above civil revision petitions are disposed of in the above terms while sustaining the impugned orders dated 26.2.2026 passed respectively in I.A.Nos. 495 & 497 of 2024 in O.S.No.380 of 2018 on the file of District Munsif Court, Udumalpet, Tiruppur District. Consequently, the connected CMPs are closed.

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Index: Yes
Speaking order
Neutral Citation: Yes

To
The District Munsif Court,
Udumalpet, Tiruppur District.

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N.ANAND VENKATESH,J

RS

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