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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-11-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 7417 of 2026
C.M.P.No.31965 of 2026

CNR: {HCMA012592692026}

Case QR

Lakshmi (since deceased)
B.Paramasivam (Since Deceased)
1. Latha
2. Kalaivani
3. Prashanth

..Petitioner(s)

Vs

M.Bhojan (since deceased)
1. Kalavathi
2. Jai Dev
3. Josh

..Respondent(s)

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleased to set aside the Order dated 17.03.2023, passed in E.A.No.1 of 2023 in E.P.R.No.20 of 2021 in O.S.No.36 of 2000, dated 27.09.2021, on the file District Munsif, Udhagamandalam.

For Petitioner(s): M/s.Elizabeth Ravi

ORDER

The Civil Revision Petition is filed challenging the order passed by the Executing Court dated 17.03.2023 appointing an Advocate Commissioner to demolish the building / superstructure in the suit property as per the decree passed in O.S.No.36 of 2000 on the file of the learned District Munsif, Udhagamandalam.

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2.The respondents herein filed a suit seeking a declaration of title, recovery of possession and a mandatory injunction to remove the superstructure found in the suit property and the said suit was decreed.

3.Originally, the suit was filed against one Lakshmi and Paramasivam. The defendants are the mother and the son. After the passing of the decree, the first defendant died, and the Execution Petition was filed against the second defendant alone, as he was entitled to represent the estate of the deceased first defendant as one of her legal heirs. Subsequently, the above said Paramasivam, the second defendant, also died. Hence, the petitioners, who are the legal heirs of Paramasivam, were brought on record in the Execution Petition.

4.The respondents filed E.A.No.1 of 2023 seeking appointment of an Advocate Commissioner to carry out the demolition of the building / superstructure in the suit property and to execute the decree for a mandatory injunction. By the impugned order, the Executing Court appointed an Advocate Commissioner, directing him to execute the warrant issued to demolish the superstructure found in the suit property. Aggrieved by the same, the petitioners have come before this Court.

5.The learned counsel for the petitioners would submit that the main suit was not seriously contested by the petitioner's predecessor in interest,

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Paramasivam, as he had no right over the suit property situated in Survey No.450/12. According to the petitioners they are the original owners of the property situated in Survey No.450/11. It is further submitted by the learned counsel that the Advocate Commissioner appointed by the Court below, under the guise of demolishing the superstructure situated in the suit property in S.No.450/12, is attempting to demolish the superstructure of the petitioner's property situated in a different survey number, S.No.450/11. Therefore, the petitioners seek to set aside the impugned order mainly on the ground that without identifying the suit property, the Court below ought not have proceeded to appoint an Advocate Commissioner.

6.It is seen from the decree, the suit property situated in Survey No.450/12 has been properly described with its survey number, sub division number and four boundaries. The petitioner's predecessor in interest, namely Paramasivam, who was arrayed as the second defendant in the suit, never disputed the identity or description of the suit property in the suit.

7.In such circumstances, the respondents / Decree Holders are entitled to execute the decree in respect of the suit property situated in Survey No.450/12. However, it is made clear that the Advocate Commissioner shall identify the suit property situated in S.No.450/12 with reference to the four boundaries mentioned in the decree and carry out the execution of the warrant. In case he

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finds any difficulty in identifying the suit property based on description found in the decree, it is for him to inform the same to the Executing Court and seek assistance of surveyor or other expert. Hence, there is no necessity to interfere with impugned order. With this clarification, the Civil Revision Petition stands disposed of. 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 District Munsif, Udhagamandalam.

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S.SOUNTHAR, J.

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