



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-06-2026

CORAM

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

**CRP No. 5711 of 2025
and CMP.No.28459 of 2025**

N.Sankar Rao
S/o.Late.K.Narayana Rao, No.201, Triplicane High
Road, Chennai-5.

..Petitioner(s)/1st
respondent/1st
defendant

Vs

1. Raghavendran
S/o.Late.K.Narayana Rao, No.106, 7th Cross,
Ganesh Nagar, S.R.Mogulla, Mysore-500 007.
New No.38/14, Krishnappa Lane, Triplicane,
Chennai-600 005.
2. Sasikala
D/o.Late K.Narayana Rao, W/o.Chowlan, No.1-
4-11, Hanuman Nagar, Sankara Reddy Post,
Medak District, Andhra Pradesh, No.38/14,
Krishnappa Lane, Triplicane, Chennai-600 005.
3. Manjula
D/o.Late K.Narayana Rao, Previously At
No.201, Triplicane High Road, Chennai -5,
Now at R/o.23-6-818/A, Bela, Shahallibanda
Hyderabad - 500 065.

..Respondent(s)/ 2nd
defendant

Prayer:

Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the petition order made in IA.No.7196 of 2014 in OS.No.9151 of 2008, dated 12-02-2025 on the file of the VI Assistant City Civil Court, Chennai.



For Petitioner(s):
For Respondent(s):

MR.Jeremiah Gregory John
MR.V.MANISEKARAN FOR R1 & R2
R-3 - NO APPEARANCE

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ORDER

Civil Revision Petition filed seeking to set aside the order dated 12.02.2025 passed in I.A. No.7196 of 2014 in O.S. No.9151 of 2008 on the file of the VI Assistant Judge, City Civil Court, Chennai.

2. The revision petitioner is the first defendant and respondents 1 and 2 herein are the plaintiffs in O.S. No.9151 of 2008, which was filed for partition. A preliminary decree came to be passed, allotting $\frac{1}{2}$ share to the plaintiffs and the remaining $\frac{1}{2}$ share to the defendants. The said preliminary decree has attained finality.

3. Thereafter, for passing the final decree, the plaintiffs filed I.A. No.6534 of 2013 seeking appointment of an Advocate Commissioner. During the pendency of the final decree proceedings, the first defendant expressed his intention to purchase the property. Consequently, the final decree application was dismissed on 21.04.2014 with liberty to the parties to invoke the provisions of the Partition Act for exercising their option to purchase the shares. Aggrieved thereby, the defendants preferred an appeal, which was disposed of by the First Appellate Court in A.S. No.415 of 2014 with the following directions:



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"In the result, the judgment and decree of the VI Assistant Judge, City Civil Court, pronounced in I.A. No.6534 of 2013 in O.S. No.9151 of 2008 on 21.04.2014 is set aside and both parties are directed to file reports regarding the market value of the property and the commission warrant is ordered to be reissued. The Advocate Commissioner is directed to submit a report regarding the market value of the property and, after fixing the market value, the respondents/petitioners/plaintiffs are directed to sell their ½ share to the appellants/respondents/defendants. If the defendants are not willing to purchase the property, the Advocate Commissioner is directed to sell the schedule-mentioned property by public auction after giving notice to both parties according to law. The appeal is disposed of accordingly. Parties shall bear their own costs."

4. Pursuant to the directions issued by the Appellate Court, the plaintiffs filed I.A. No.7196 of 2014 under Section 4 of the Partition Act seeking a direction to the defendants to purchase their 50% share at the prevailing market value. An Advocate Commissioner was appointed therein for valuation of the property and he has submitted his report. The present revision challenges the appointment of the Advocate Commissioner in I.A. No.7196 of 2014.

5. The learned counsel for the petitioner submitted that the application under Section 4 of the Partition Act was only for directing the defendants to purchase the plaintiffs' half share and, therefore, the appointment of an Advocate Commissioner in that application was erroneous. According to him,



the Commissioner ought to have been appointed only in the final decree application, namely, I.A. No.6534 of 2013.

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6. However, on a perusal of the judgment of the First Appellate Court, it is clear that the Advocate Commissioner was directed to be appointed for valuation of the property in connection with the proceedings under Section 4 of the Partition Act, wherein the plaintiffs sought a direction to the defendants to purchase their half share. Therefore, the Trial Court has rightly appointed the Advocate Commissioner in I.A. No.7196 of 2014 and the same requires no interference.

7. Further, the suit is of the year 2008. Even as on date, the plaintiffs have not been able to enjoy their 50% share. When the final decree proceedings were initiated, the defendants expressed their willingness to purchase the property. Thereafter, the plaintiffs invoked Section 4 of the Partition Act seeking a direction to compel the defendants to purchase their share at market value. The Advocate Commissioner has already submitted his report. Despite the same, the revision petitioner has chosen to challenge the proceedings, which clearly shows that he is not inclined to purchase the property and is only interested in dragging on the proceedings. Admittedly, the revision petitioner is in possession and enjoyment of the property.



8. Therefore, an opportunity is granted to the revision petitioner/first defendant to express his willingness to purchase the plaintiffs' 50% share but he failed. Since the Advocate Commissioner has already submitted his report regarding the market value, the plaintiffs are at liberty to work out their rights in execution proceedings. Since revision petitioner is not inclined to purchase the plaintiffs' share, the Trial Court shall take appropriate steps for sale of the entire property by public auction in accordance with law and complete the exercise within a further period of four weeks.

9. With the above directions, this Civil Revision Petition is disposed of. It is made clear that the revision petitioner shall not hereafter prolong the proceedings by filing vexatious applications and, if any such application is filed, the Trial Court shall be at liberty to impose exemplary costs. No costs. Consequently, the connected miscellaneous petition is closed.

22-06-2026

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

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T.V.THAMILSELVI, J.

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To

1. The VI Assistant City Civil Court, Chennai.
2. The Section Officer, VR section,
High Court of Madras.

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