



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2026

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. No.6083 of 2025
and CMP. No.29955 of 2025**

Anitha Sankar

Petitioners

Vs

K.Ganesan (dead)
1.Mrs.Kasthuri
2.Mrs.Yegeswari

Respondent(s)

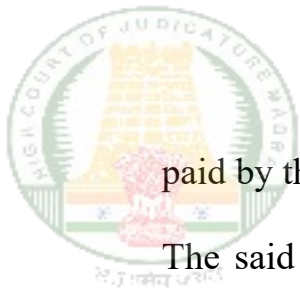
PRAYER: This Civil Revision Petition is filed under 227 of the Constitution of India, to set aside the order dated 17.10.2025 passed in E.A. No.9 of 2025 in E.P. No.1323 of 2019 by the learned XXVI Assistant City Civil Court, Chennai.

For Petitioners : Mr.T.Sundar Rajan

For Respondents : Mrs.D.Prasanna

ORDER

The decree holder is the revision petitioner, aggrieved by the dismissal of her application, seeking appointment of an Advocate Commissioner for noting down the physical features of the suit scheduled property and collecting details about the tenants, portions occupied by the tenants, details of rents and advance



paid by them and also to obtain copies of the rental agreements and file a report.

The said application was resisted by the judgment debtors and the Executing Court by order dated 17.10.2025, dismissed the said Application, challenging the said order, the decree holder is before this Court by way of the present revision petition.

2. I have heard Mr.T.Sundar Rajan, learned counsel for the revision petitioner and Mrs.D.Prasanna, learned counsel appearing for the judgment debtors.

3. Mr.Sundar Rajan, learned counsel for the petitioner, would state that the petitioner had filed the Execution Petition under Order XXVI, Rule 9 CPC and despite the parties leading evidence, there is no reliable information that has come forth with regard to the physical features of the property, as well as the income that is accruing to the judgment debtors from the various portions. He would further state that the third judgment debtor has also committed willful disobedience and thereby, contempt and unless the present physical features are noted, the Court will not be in a position to adjudicate upon the complaint of the petitioner as to whether the third judgment debtor has indeed violated the decree. Mr.Sundar Rajan, learned counsel would further state that the Executing Court has a duty to ensure that the decree is executed to its full satisfaction and



in such process, the Executing Court was certainly entitled to appoint a Commissioner for the stated purposes.

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4. Per contra, Mrs.D.Prasanna, learned counsel for the respondents/judgment debtors, would state that excepting some portions, the remaining portions are occupied only by family members who are also aged, and therefore, the question of requiring any details regarding payment of rents does not arise. She would further state that the petitioner cannot fish for evidence by seeking appointment of an Advocate Commissioner to gather details for his case and it is the duty of the petitioner to establish the same. She would therefore state that the Executing court has rightly dismissed the application for appointment of a commissioner. In fact, pending the revision, the parties attempted to settle the disputes amicably, and the respondents also came forward to file an affidavit dated 23.02.2026 stating that they have no objection for the decree holder to collect rents from the tenants of Door.No.6 as well as Schedule B property. In the affidavit, it has been contended that the property in Door.Nos.4 and 5 belongs to the 1st respondent / 2nd judgment debtor absolutely and she and her daughter are residing there and utilizing the rental income to meet their daily as well as medical expenses.

5. In the affidavit, it is further stated that she receives very meager rent, which is not even sufficient to eke out a livelihood. However, the said offer was



not acceptable to the revision petitioner, since according to Mr.Sundar Rajan, the decree has been passed in respect of all items of property and when the decree has become final, it is not open to the 2nd judgment debtor to continue to contend that she is the absolute owner of the property. Mr.Sundar Rajan would, however, state that if at least the respondents were agreeable to the petitioner receiving rents from all the properties, then he may not insist on the appointment of an Advocate Commissioner. The respondents are not willing to such a course and the respondents are not also forthcoming to give details of the rents that are being collected by them and expenses, if any, which are being incurred for maintenance of the property.

6. In the light of the above, I am inclined to set aside the order of the Executing Court, in accordance with the provision under Order XXI, Rule 41 CPC, which provides for examination of a judgment debtor as to his property, for the purposes of ascertaining whether the judgment debtor has any property or means of satisfying the decree and the Court is empowered to order for the attendance and examination of the judgment debtor, or officer or other person, and for production of any books or documents. In the light of express provision also available in the Code of Civil Procedure, the Executing Court ought to have appointed an Advocate Commissioner.



7. In light of the above, I am inclined to allow the Civil Revision Petition, the order in EA.No.9 of 2025 in EP.No.1323 of 2019 dated 17.10.2025 is set aside. The Executing Court shall appoint an Advocate Commissioner and direct the Commissioner to file a report within a period of four (4) weeks. The Executing Court shall fix a reasonable remuneration for the Advocate Commissioner. On receipt of the Advocate Commissioner's report and after giving an opportunity to both parties to file their objections, the Executing Court shall further proceed to inquire into the Execution Petition and dispose of the same on merits and in accordance with law on or before 30.09.2026. Consequently, connected Miscellaneous Petition is also closed. No costs.

24.02.2026

rkp

Neutral Citation Case : Yes/No

Internet: Yes/No

Index : Yes/No

To:

The XXVI Assistant City Civil Court, Chennai.



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P.B.BALAJI, J.,

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