



C.R.P.No.470 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.No.470 of 2026

and

CMP.No.2595 of 2026

1. S.Sithamallappa

2. G.Jadeswami

3. Nagamma

... Petitioners

Vs.

P.Sivananjappa

... Respondent

Prayer:- Civil Revision Petitions filed under Section 115 of CPC., to set aside the fair and final orders dated 07.10.2025 passed in E.A.No.4 of 2025 in E.P.No.44 of 2018 in O.S.No.152 of 2015 on the file of the District Munsif Court, Sathyamangalam, Erode District and allow the above C.R.P.

For Petitioners : Mr.J.Titus Enock

For Respondent : Mr.M.Roshan Atiq



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ORDER

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The petitioners, who are the judgment debtors, filed an application in E.A.No.4 of 2025 in E.P.No.44 of 2018 in O.S.No.152 of 2015 under Order XXVI Rule 9 read with Section 151 of the Code of Civil Procedure, seeking appointment of an Advocate Commissioner.

2.The case of the petitioners/judgment debtors is that though they suffered a decree for mandatory injunction, which has also been confirmed by the First Appellate Court, the property now sought to be proceeded with in execution lies within the property belonging to the revision petitioners and, for that limited purpose, they sought for a survey. The Executing Court, finding no merit in the said contention and holding that the property sought to be executed is different from the property belonging to the petitioners, dismissed the application.

3.The Civil Revision Petition is taken up for final disposal with the consent of the learned counsel for the petitioners as well as the learned counsel for the caveator.



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4.The learned counsel for the petitioners would submit that the petitioners are conscious of the fact that the decree for mandatory injunction has attained finality and that they are willing to comply with the decree. However, they seeks indulgence of this Court only for proper identification of the decreetal property in the execution proceedings so as to ensure that no portion of the petitioners' other property is affected.

5.Per contra, the learned counsel for the respondent/decreed holder would submit that the property described in the application for appointment of an Advocate Commissioner is entirely different from the property forming the subject matter of the execution proceedings and that the present attempt is only to protract the proceedings and delay compliance with the decree for mandatory injunction.

6.I have carefully considered the submissions advanced on either side and perused the materials available on record.

7.The decree for mandatory injunction in O.S.No.152 of 2015 has admittedly attained finality. The petitioners have also fairly conceded that they are willing to comply with the decree and that their only

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apprehension is that, under the guise of execution, there should not be any excess execution affecting their other properties. For the said limited purpose, they seek appointment of an Advocate Commissioner with the assistance of a qualified Surveyor.

8. This Court is of the view that no prejudice would be caused to the respondent/decreed holder if an Advocate Commissioner is appointed with the assistance of a local Surveyor for the limited purpose of identifying the decretal property alone in the execution proceedings and for effecting delivery of possession, strictly in terms of the decree passed in O.S.No.152 of 2015, including identification of the cart track, if any. The petitioners shall not obstruct the process of identification and shall effect delivery of possession, either voluntarily or through the Court Bailiff, upon such identification. The entire expenses for the said exercise shall be borne by the revision petitioners. The said exercise shall be completed on or before 15.03.2026.



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9. With the above directions, this Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

03.02.2026

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non-Speaking Order
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To

The District Munsif Court, Sathyamangalam,
Erode District.



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P.B.BALAJI, J.

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