



CRP(MD). No.216 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.01.2026

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.216 of 2026
and
CMP(MD) No.863 of 2026**

1.Chinnu Nayakkar

2.Pappaiya

3.Sivakumar

... Petitioners

Vs

Periyasamy

... Respondent

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order in IA No. 5/2025 in OS No.58/2024 on the file of District Munsif cum Judicial Magistrate Court, Viralimalai, dated 13.11.2025.

For Petitioners : Ms.V.Sundari

ORDER

This Civil Revision Petition has been filed challenging the order made in I.A.No.5 of 2025 in O.S.No.58 of 2024 dated 13.11.2025 on the file of the District Munsif cum Judicial Magistrate Court, Viralimalai.



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2.The respondent/plaintiff has filed a suit in O.S.No.58 of 2024 before the District Munsif cum Judicial Magistrate Court, Viralimalai, for the relief of permanent injunction along with other reliefs. Pending suit, an Advocate Commissioner was appointed and after measuring the property, he has also filed his report before the Court below. Subsequently, the petitioners/defendants on the ground that the Commissioner's report is neither precise nor impartial and it has been prepared in a vague, one sided and biased manner have filed an application in I.A.No.5 of 2025, seeking to appoint a new Advocate Commissioner to re-measure the property including the property in S.No.93/1, using modern digital survey methods with the assistance of revenue authorities and to file a fresh report along with plan. The said application was dismissed on 13.11.2025. Challenging the same, the present Civil Revision Petition has been filed.

3.The learned counsel for the petitioners reiterating all the contentions set out in the memorandum of grounds of Revision would submit that the Advocate Commissioner had acted in a biased manner and had filed his report without measuring the property properly. The Commissioner had traversed beyond the scope of the pleadings in the



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Commission application plaint and had also noted the imaginary facts to support the case of the respondent/plaintiff. However, without considering all those facts properly, the Court below had dismissed the application. Therefore, he would pray for appropriate orders.

4.I have carefully considered the submissions made by the learned counsel for the petitioners. Records perused. Since no adverse order is going to be passed as against the respondent, notice to the respondent is dispensed with.

5.Admittedly, an application had been taken out in I.A.No.5 of 2025 to reject the report and plan of the Advocate Commissioner. The said application had been dismissed by the Court below.

6.It is well settled that a Commissioner's report is merely a piece of evidence and not a conclusive proof. When such a report is contrary to the admitted documents, an aggrieved party is always at liberty to cross-examine the Advocate Commissioner for disproving the report filed by him/her, by producing necessary documents at the time of trial. Thus, this Court is of the view that the petitioners can very well cross-examine the Advocate Commissioner, can raise all their



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objections with regard to the report and plan of the Advocate Commissioner and can mark necessary documents to disprove the report of the Advocate Commissioner at the time of trial, based on the report and plan and its validity, if they are aggrieved with such report.

7.In such view of the matter and also considering the fact that the property had already been measured multiple times by the Commissioner in the presence of the parties to the suit and their respective counsel, I do not find any infirmity, which necessitates interference with the order impugned in the present Civil Revision Petition.

8.Accordingly, Civil Revision Petition stands dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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29.01.2026

To

The District Munsif cum Judicial Magistrate, Viralimalai.

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N.SENTHILKUMAR, J.

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