



CRP(MD). No.349 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 10.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

C.R.P(MD). No.349 of 2026

and

C.M.P(MD) No.1588 of 2026

Santosh

... Petitioner

Vs

1.Arokkiyadas

2.Sivakannan

3.Saravanakumar

4.The Assistant Commissioner,
Prohibition and Excise Department,
Theni District.

5.The Commissioner,
Prohibition and Excise Department,
Chepauk, Chennai.

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the relating to I.A.No.3 of 2025 in O.S.No.96 of 2024 on the file of the District Munsif Court, Periyakulam and set aside the fair and decreetal order dated 03.12.2025 passed therein and allow the I.A.No.3 of 2025 by appointing an Advocate Commissioner.

1/5



CRP(MD), No.349 of 2026

For Petitioner : Mr.J.Vishnu
For R4 and R5 : Mr.F.Deepak
Special Government Pleader

ORDER

This Civil Revision Petition has been filed challenging the order passed in I.A.No.3 of 2025 in O.S.No.96 of 2024 on the file of the District Munsif Court, Periyakulam, dated 03.12.2025, whereby the learned trial Judge rejected the application filed for appointment of an Advocate Commissioner.

2. The trial Court, on consideration of the pleadings, has held that appointment of an Advocate Commissioner arises only when there is a dispute with regard to the identity or measurement of the suit property. In the present case, the dispute between the parties is with regard to possession, which has to be established only by letting in oral and documentary evidence.

3. The trial Court has further found that there is no dispute regarding the measurement or nature of the suit property warranting appointment of an Advocate Commissioner. Hence, it was held that



CRP(MD). No.349 of 2026

appointment of a Commissioner to inspect the property and report on possession would amount to collection of evidence, which is impermissible.

4. The learned counsel for the revision petitioner submitted that the suit itself is not maintainable and that it is one for specific performance and that the trial Court, without examining the same, has passed the impugned order without proper application of mind.

5. This Court is of the view that the question of maintainability of the suit and the nature of the relief sought are matters to be decided by the trial Court at the appropriate stage, based on the pleadings and evidence adduced by the parties. Such issues cannot be gone into at the stage of considering an application for appointment of an Advocate Commissioner.

6. Further, an Advocate Commissioner cannot be appointed for the purpose of ascertaining possession, as the same would amount to collecting evidence on behalf of a party.



CRP(MD). No.349 of 2026

WEB COPY

7. In the considered opinion of this Court, the trial Court has rightly exercised its discretion and no infirmity or illegality is found in the impugned order warranting interference.

8. Accordingly, this Civil Revision Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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

10.02.2026

Indu



WEB COPY



CRP(MD). No.349 of 2026

N.SENTHILKUMAR, J.

Indu

CRP(MD). No.349 of 2026

10.02.2026