



CRP(MD). No.397 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 24/02/2026

CORAM

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

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CMP(MD).No.1949 of 2023

1. Pongalamman Temple
2. M.Panner Selvam
3. Murugesan
4. Marimuthu
5. Sathiyamoorthi
6. Mahendran
7. Palaniappan
8. Elangovan
9. Balasubramanian
10. Muruganandham

... Petitioners

Vs

1. Tamilnadu Slum Clearance Board,
represented by its Chief Secretary,
Kamarajar Road,
No.5, Sebbakam,
Chennai City Civil Court, Chennai..

2. Tamilnadu Slum Clearance Board,
Represented by its Executive Engineer,
Madurai Road,
Palakarai,
Trichy - 620 008..



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3. The Tahsildar,
Pattukkottai,
Muthupetai Road,
Pattukkottai Taluk and Town,
Thanjavur District..

4. The Revenue Divisional Officer, Pattukkottai,
Muthupetai Road,
Pattukkottai Taluk and Town,
Thanjavur District..

5. The District Collector,
Thanjavur,
Trichy Road,
Thanjavur Town and District.

... Respondents

PRAYER :-

Civil Revision Petition filed under Article 227 of the Constitution of India to allow the civil revision petition and set aside the fair and decretal order date 02-12-2022 made in I.A.No.26 of 2021 in O.S.No.30 of 2020 on the file of the learend Subordinate Judge, Pattukkottai, and thus render justice.

For Petitioners : Ms. Afrin Fathima

For Respondent No.1 : Mr.F.Deepak,
Special Government Pleader

For 2nd respondent : Ms. Latha

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 02.12.2022 passed in I.A. No. 26 of 2021 in O.S.



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No. 30 of 2020 on the file of the learned Subordinate Judge, Pattukkottai.

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2. The revision petitioners have challenged the order of the trial Court refusing to appoint an Advocate Commissioner. The learned counsel appearing for the revision petitioners submitted that the suit property comprised in Survey Nos. 142, 142/1 and 142/2 is classified in the revenue records as “Arasu Poramboke” land. It is further submitted that in Column No.7 of the revenue records, the property is shown as belonging to Pungaliamman Temple. According to the petitioners, though the classification is Government Poramboke, the suit property has been under the cultivation and enjoyment of the petitioners, and agricultural activities are being carried on in the said land.

3. It is further submitted that the earliest revenue document, namely the “A” Register, reflects the nature of possession and usage of the property, and the same would establish continuous enjoyment by the revision petitioners. Therefore, it is contended that appointment of an Advocate Commissioner is necessary to ascertain the physical features,



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possession, nature of enjoyment, and identity of the suit property.

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4. Per contra, the learned Special Government Pleader submitted that, as per the proceedings of the District Collector in Na.Ka. No. A2/30669/2013 dated 09.02.2021, the Government Poramboke land has been transferred to the Tamil Nadu Civil Supplies Corporation. It is further contended that the petitioners are encroachers and are in unauthorized occupation of Government land.

5. However, the learned counsel for the revision petitioners contended that the said proceedings are of a subsequent period and would not affect the earlier revenue entries reflected in the “A” Register. It is submitted that the revenue records would indicate long-standing possession and enjoyment by the petitioners, and therefore, the appointment of an Advocate Commissioner is essential to properly demarcate the suit property and ascertain its physical features.

6. This Court has considered the rival submissions and perused the



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materials available on record.

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7. It is well settled that appointment of an Advocate Commissioner under Order XXVI Rule 9 of the Code of Civil Procedure is intended to assist the Court in ascertaining the physical features of the property, identity, extent, nature of possession, and other relevant factual aspects, which cannot be conveniently established by oral evidence alone. The report of the Commissioner is only an aid to the Court and does not substitute the evidence of the parties.

8. In the present case, considering the nature of the dispute relating to identity, classification, and possession of the suit property, this Court is of the view that appointment of an Advocate Commissioner would assist the trial Court in arriving at a proper and just conclusion. The rejection of the request for appointment of Advocate Commissioner by the trial Court is not justified in the facts and circumstances of the case.

7. Accordingly, the order passed by the trial Court in I.A. No. 26



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of 2021 is set aside. The trial Court is directed to appoint an Advocate Commissioner having sufficient experience in civil matters, who shall be assisted by a qualified Surveyor and, if necessary, by the jurisdictional revenue officials. The Commissioner shall inspect the suit property, identify Survey Nos. 142 and partition of S.No.142 and note the physical features, nature of possession, extent of cultivation, and boundary details with reference to revenue records, including the “A” Register and other connected documents.

8. The Commissioner shall also take photographs, prepare a detailed plan/sketch, and submit a comprehensive report to the trial Court within a period of six months from the date of receipt of a copy of this order.

9. It is made clear that the observations made by the Special Government Pleader regarding alleged encroachment are left open to be decided by the trial Court on the basis of evidence. The trial Court shall independently adjudicate the rights of the parties uninfluenced by any of



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the observations made herein.

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10. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed. It is further made clear that all parties shall be at liberty to raise their objections before the trial Court, and the same shall be considered in accordance with law.

24.02.2026

TRP

Index : yes/ no

Internet : yes / no

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N. SENTHILKUMAR,J

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