



C.R.P.(MD) No.607 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.03.2026

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THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.(MD)No.607 of 2026

and

C.M.P.(MD)No.2834 of 2026

Tahirabanu

... Petitioner

vs.

Maruthamuthu

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 04.12.2025 in I.A.No.2 of 2025 in O.S.No.124/2024 on the file of the learned District Munsif, Aranthangi, and allow the Civil Revision Petition.

For Petitioner : Mr.R.Prasanna

ORDER

This Civil Revision Petition challenges the order passed by the learned District Munsif, Aranthangi, in I.A.No.2 of 2025 in O.S.No.124 of 2024, dated 04.12.2025.



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2. The plaintiff in O.S.No.124 of 2024 on the file of the learned District Munsif, Aranthangi, is the Civil Revision Petitioner. She is aggrieved by the order passed by the learned District Munsif in I.A.No.2 of 2025, whereby the learned District Munsif, had appointed an Advocate Commissioner to note down the physical features of the schedule mentioned property by an order dated 04.12.2025.

3. The case of the civil revision petitioner is that the schedule mentioned property belonged to her father ancestrally. She claimed he had executed a settlement deed on 14.10.2009 conveying the property to the petitioner. The said document was also registered on the file of the Sub Registrar, Aranthangi. She pleaded that she has constructed a house property thereon and has been in possession and enjoyment of the same. Fearing unauthorised interference by the defendant, she came forth with the suit for bare injunction.

4. Summons were served on the defendant. The defendant filed a detailed written statement. According to him, he is in possession of the southern side of the suit property in a சுண்ணாம்பு கால்வாய், bearing



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Survey No.121/1 of Gopalamudram Village. He conceded that the property belongs to the Government, but claimed, he had been in settled possession to an extent of 0.01.5 Ares out of the total extent of 1.38.5 Hectares. Being in possession of the property, he claimed that the plaintiff, on the strength of the settlement deed, is not entitled to seek injunction.

5. Initially, the plaintiff presented an application in I.A.No.1 of 2024 seeking appointment of an Advocate Commissioner. The said application was allowed ex-parte. The warrant of Commission was also executed on that basis. The defendant protested against the manner in which the Advocate Commissioner had executed the warrant. Therefore, the Court directed the Advocate Commissioner to re-visit the property and submit a report. Subsequently, the defendant took out an application in I.A.No.2 of 2025 seeking appointment of an Advocate Commissioner to survey, not only the suit schedule mentioned properties, but also the adjoining properties. The learned District Munsif, despite the resistance that was given by the plaintiff, allowed the application. Hence, the revision.



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6. I heard Mr.Prasanna in support of the civil revision petitioner.

The ground that has been taken by Mr.Prasanna is that, the Survey No. 112/3B, 112/4 and 121/1 are not subject matters of the suit. He relies upon the paragraph No.3 of the plaint to state that the subject matter of the suit is Survey No.70/2 and not the aforesaid survey numbers.

7. I have considered the submissions. I have gone through the records.

8. A careful perusal of the schedule attached to the plaint discloses that the survey number 70/2 is not even a subject matter of the suit, though it is referred in paragraph No.3(2) of the plaint. The plaintiff seeks the relief of permanent injunction with respect to survey numbers 112/3B and 112/4 of Gopalamudram Village, Aranthangi Taluk, Pudukkottai District.

9. Noting that his first submission fails, Mr.Prasanna states that the Commission should be confined only to Survey No.70/2 of the said village. In my view, it is equally untenable. The appointment of Advocate Commissioner to note down the manner in which the canal



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runs. This is a discretionary order. A revision under Article 227 is not meant for correction of such procedural orders. It is only when the discretion has been exercised in a capricious or arbitrary manner, revision is tenable. Further, the matter in issue for the Court to decide is whether the plaintiff's claims over Survey Nos.112/3B, 122/4 are tenable or not. For elucidating this issue, appointment of Advocate Commissioner would be essential. Hence, the impugned order cannot be found fault with.

10. In the light of the above discussions, this Civil Revision Petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed. No cost.

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

04.03.2026

Indu

To:

The District Munsif, Aranthangi.

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V.LAKSHMINARAYANAN, J.

Indu

Order made in
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