



C.R.P.(MD)No.678 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.03.2026**

CORAM

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

C.R.P.(MD)No.678 of 2026

and

C.M.P.(MD)No.3158 of 2026

Marimuthu

... Petitioner

vs.

1.Chandrasekaran

2.Kabilan

Kalimuthu (Died)

3.Saroja

4.Rajinikanth

5.Raja

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 09.12.2025 made in I.A.No.5 of 2025 in O.S.No.234 of 2023 on the file of the Hon'ble District Munsif cum Judicial Magistrate Court, Karambakkudi.

For Petitioner : Mr.K.C.Maniyarasu



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ORDER

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The plaintiff is the Civil Revision Petitioner.

2. The challenge is to the order passed by the learned District Munsif cum Judicial Magistrate Court, Karambakkudi in I.A.No.5 of 2025 in O.S.No.234 of 2023.

3. The Civil Revision Petitioner presented a suit seeking the relief of permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the property to an extent of 442 square meter. The defendants disputed the alleged possession of the plaintiff over the property. According to them, there is no encroachment over the property at all. Hence, they filed an application for appointment of an Advocate Commissioner in I.A.No.5 of 2025 in O.S.No.234 of 2023.

4. After perusal of the affidavit and counter, the learned District Munsif cum Judicial Magistrate Court, Karambakkudi, concluded that there exists a dispute regarding boundaries, areas, measurement as to where the trees, which the plaintiff and the defendants claim right over exist. Hence, exercising his discretion under Order XXVI Rule 9 of the Code of Civil Procedure, the learned Judge appointed an Advocate Commissioner.



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5. Mr.Maniyarasu urges that this is not a case where a Commissioner ought to have been appointed, since the suit is only for injunction and, moreso, there is no counter claim at the instance of the defendants. He would add that if the property of the plaintiff alone had been surveyed, it would have been sufficient.

6. I have carefully considered the submission of the learned Counsel for the petitioner and gone through the entire records.

7. At the outset, I should point out that the learned District Munsif cum Judicial Magistrate Court, Karambakkudi feels that the appointment of an Advocate Commissioner would assist him in elucidating the matter in dispute. This is an exercise of discretion. An exercise of discretion, unless and until is capricious or palpably erroneous, it cannot be revised. The revisional jurisdiction of this Court is meant to correct errors which touch upon jurisdiction. It should seldom be exercised to correct orders in the nature of the one impugned.

8. Apart from this bar, even on merits, the existence of the trees and the question as to whether the defendants have, in fact, encroached upon the plaintiff's property are matters in issue. It has



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to be answered by the trial court in the suit. By measuring the plaintiff's property alone, nothing would come out. The adjacent properties in Survey Nos. 31/6 and 31/7 would also have to be measured in order to obtain a holistic idea of the area in question.

9. Furthermore, under Order XXVI Rule 9 of the Code of Civil Procedure, it is not mandatory for a defendant to set up a counter-claim in order to seek the appointment of an Advocate Commissioner. An application under Order XXVI Rule 9 of the Code of Civil Procedure is tenable at the instance of both the plaintiff and the defendant.

10. All points failing, I find no reason to interfere. The Civil Revision Petition is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

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

12.03.2026

To:

The District Munsif cum Judicial Magistrate Court,
Karambakkudi.



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V.LAKSHMINARAYANAN, J.

Nsr

Order made in
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