



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :23.03.2026

CORAM:

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P(MD)No.1856 of 2023

and

C.M.P(MD)Nos.9307,12562,12566 and 12568 of 2023

1.Arunprakash

2.Palanisamy ... Petitioners/Petitioners/Respondents 1
and 2/Defendants 1 and 2

.Vs.

1.Sundarambal ...Ist Respondent/Ist
Respondent/Petitioner/
Plaintiff

2.Rathinasabapathy

3.Ramathan

4.Vasanthakannan

(R4 is suo-motu impleaded as per order of this Court made in
C.R.P(MD)No.1856 of 2023, dated 3.2.2026)

... Respondents 2 and 3/
Respondents 2 and 3/
Respondents 3 and 4/



Defendants 3 and 4

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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to set aside the fair and decretal order made in I.A.No.127 or 2022 in I.A.No.4 of 2021 in O.S.No.1 of 2021, dated 7.3.2023, on the file of District Munsif Court, Oddanchatram.

For Petitioner : Mr.M.P.Senthil

For Respondent-1 : Mr.T.Antony Arul Raj

For Respondent-2 : Died

For Respondent-3 : Mr.S.Venkatesh

For Respondent-4 : No appearance

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order made in I.A.No.127 or 2022 in I.A.No.4 of 2021 in O.S.No.1 of 2021, dated 7.3.2023, on the file of District Munsif Court, Oddanchatram.

2.It is informed that the legal heirs of the deceased second respondent, Mr.Rathinasabapathy had alienated the property in favour of one Vasanathakannan, by way of registered document,



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dated 12.09.2022. The sale has happened pending the suit. Hence, whatever interest the deceased Rathnasabapathy had, has devolved on the fourth respondent, who has been impleaded as a party to the revision. A perusal of the records shows that the fourth respondent has already been impleaded on 6.3.2026. This, being a revision arising out of the interlocutory order, impleading of the purchaser will enure in favour of the party in the suit also. (See, *HH Brij Indar Singh .vs. Lala Kanshi Ram AIR 1917 PC 156*). The learned Munsif shall do the needful in the suit.

3. This Civil Revision Petition arises against the order passed by the learned District Munsif Court, Oddanchatram, in dismissing the application filed for re-issuance of the Commissioner's warrant.

4. The suit in O.S.No.1 of 2021 seeks the relief of declaration that the pathway designated as 'ABCD' in the plaint is a common pathway for the plaintiff and the defendants and for a permanent injunction restraining the defendants from in any manner interfering with the usage of the common pathway by the Plaintiff. Pending the suit, the plaintiff took out an application in I.A.No.4 of 2021 seeking appointment of an Advocate Commissioner. An Advocate Commissioner was also appointed. The Advocate



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Commisisoner submitted a report together with plan to the Court on 4.2.2021. The learned Judge granted time til 6.3.2021 for filing of objections. As objections were not filed, the application came to be closed on 6.3.2021. Thereafter, the first respondent/first defendant/Civil Revision petitioner took out an application for re-issuance of warrant on the ground that the report of the Advocate Commisisoner is bereft of any deails. The Civil Revision Petitioner sought the Court to direct the Advocate Commissioner to take the assistance of a Surveyor and the concerned Village Administrative Officer to identify the suit pathway on the basis of the registered Partition Deed and Settlement Deed, dated 27.8.1974 and 25.8.1988 respectively and to submit a fresh report. This application was received in I.A.No.127 of 2022.

5. The plaintiff, who is the contesting respondent, did not oppose the said application. The learned Judge dismissed the same. Hence, the present Civil Revision Petition.

6. I have heard Mr.M.P.Senthil, for the Civil Revision Petitioner, Mr.T.Antony Arul Raj, for the first respondent and Mr.S.Venkatesh, for the third respondent and perused the materials placed before this Court.



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7.Perusal of the endorsement made by the Court in I.A.No.4 of 2021, dated 6.3.2021 shows that no objection had been filed by the parties before the Court. It has been settled by the Judgment of this Court in the case of *Vemba Gounder .vs. Pooncholai Gounder*, AIR 1996 Mad 347 that the proper procedure to be followed by a party who is aggrieved by an Advocate Commissioner's report, is to file his objections to the same. Thereafter, the Court must decide, on the basis of the objections and report, whether the Advocate Commissioner's report is to be accepted. In case, the Court finds that the report to be defective on the basis of the objections, the Court is entitled to re-issue the warrant. When the first defendant has not troubled himself to take that effort, filing an application straight-away calling for re-issuance of warrant, in view of the aforesaid verdict, is untenable.

8.Mr.M.P.Senthil, submits that the objections to the report were not filed in time due to oversight. He seeks time to file objections. The first defendant shall file his objections to the Advocate Commissioner's report by 7.4.2026.The learned Judge shall consider the objections, together with Advocate Commissioner's report and decide whether to accept the report of the Advocate Commissioner. In case, he does so, it is always open to the first defendant to cross examine the Advocate



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Commissioner invoking Order 26 Rule 10(2) of Code of Civil Procedure. If the Court comes to a conclusion that the report is not acceptable, it need not wait for an application from the concerned parties. It shall suo-motu re-issue warrant to the Commissioner with a direction to take the assistance of a Surveyor and the concerned Village Administrative Officer. Till the first portion of the task is completed, I do not find any error in the finding of the learned Judge that an application for re-issuance filed straight-away is untenable.

9. With the liberty to the Civil Revision Petitioner/first defendant to file his objections to the Advocate Commissioner's report dated 4.2.2021, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.03.2026

NCS : Yes/No
Index : Yes / No
Internet : Yes / No

vsn

To

The District Munsif,
Oddanchatram.

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Copy to

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

V.LAKSHMINARAYANAN.,J.

vsn

ORDER MADE IN

C.R.P(MD)No.1856 of 2023

and

C.M.P(MD)Nos.9307,12562,12566

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