



CRP(MD). No.3182 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.02.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.3182 of 2025
and
CMP(MD) No.17639 of 2025**

A.Bethusamy

... Petitioner

Vs

1.Durairaj

2.Govindammal

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order dated 15.07.2025 in IA No.313 of 2024 in IA No.347 of 2013 in OS No.350 of 2013 on the file of the Learned Additional District Munsif Court, Dindigul.

For Petitioner : Ms.D.Karkuzhali for
Mr.B.Prasanna Vinoth

For Respondents : Ms.Meenakshi
legal aid counsel



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ORDER

This Civil Revision Petition has been filed challenging the order dated 15.07.2025 made in I.A.No.313 of 2024 in I.A.No.347 of 2013 in O.S.No.350 of 2013 on the file of the Additional District Munsif Court, Dindigul.

2.The petitioner/plaintiff has filed a suit in O.S.No.350 of 2013 before the Additional District Munsif Court, Dindigul, for the relief of declaration along with other reliefs. Pending suit, the petitioner has filed an application in I.A.No.313 of 2024 under Order 26 Rule 9 CPC, to re-issue the Advocate Commissioner to re-survey the suit property with the assistance of the Village Administrative Officer as well as the qualified Town Surveyor and to file a report along with plan. The said application was dismissed on 15.07.2025. Challenging the same, the present Civil Revision Petition has been filed.

3.The learned counsel for the petitioner would submit that the report filed by the Advocate Commissioner, who was appointed earlier, is wholly unreliable and liable to be rejected, as the Commissioner has failed to properly measure the suit property in accordance with the



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settled procedure and failed to mention the correct survey numbers of the suit property, which is in dispute. She would further submit that due to such improper and defective measurement, the report does not accurately reflect the true state of affairs on the ground. Hence, she prays for appropriate orders.

4.The learned legal aid counsel for the respondents would submit that the Advocate Commissioner has carried out the inspection in accordance with the warrant issued and has filed a detailed and well-reasoned report. She would further submit that the Commissioner had measured the property with due care, in the presence of both parties and after taking note of the physical features, boundaries, and relevant documents made available at the time of inspection. Merely because the report is not favourable to the petitioner, the same cannot be termed as defective or improper. Hence, she prays for dismissal of this petition.

5.Heard the learned counsel on either side and perused the records.



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6.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel for the petitioner that there is some mistake in the report of the Advocate Commissioner appointed earlier with regard to the survey number, which is the main dispute in the suit proceedings, this Court is of the considered view that the trial Court is not expected to render findings based on mere assumptions or presumptions, particularly when the dispute pertains to identification of property with reference to specific survey numbers.

7.In the present case, it is seen that there exists a material discrepancy in the report of the Advocate Commissioner appointed earlier, especially with regard to the survey number of the suit property. Such inconsistency goes to the root of the matter and creates a cloud over the correctness and reliability of the report. When the very identity of the property is in dispute, the trial Court ought not to have proceeded on assumptions without ensuring proper clarification through reliable evidence. A clear and accurate determination of the survey number is essential for effective adjudication of the issues involved.



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8.In view of the above, this Court finds merit in the Civil Revision Petition. Accordingly, the Civil Revision Petition stands allowed and the order impugned herein is hereby set aside. The trial Court is directed to appoint a new Advocate Commissioner with the assistance of a qualified Town Surveyor to properly measure the property and clearly identify the correct survey number and thereafter to file a report along with plan. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. Considering the fact that the suit is of the year 2013, the trial Court is also directed to dispose of the suit within a period of one year from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

9.This Court places on record its appreciation for the commendable efforts of the legal aid counsel for the respondents, namely, Ms.Meenakshi, for conducting the case diligently and providing valuable assistance to this Court. The High Court Legal Services Committee attached to this Bench shall pay a total sum of Rs.10,000/- towards remuneration to the legal aid counsel for the respondents for conduct of the case, within a period of two weeks from the date of receipt of a copy of this order, without fail.



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WEB COPY 10. Registry is directed to forward a copy of this order to the
Legal Aid Committee for information.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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09.02.2026

To

The Additional District Munsif, Dindigul.



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N.SENTHILKUMAR, J.

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