



CRP(MD). No.3325 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.02.2026

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.3325 of 2025
and CMP(MD).No.18240 of 2025**

M.Appas Metha

... Petitioner

Vs.

- 1.K.Ajis
- 2.M.Abdul Hakkim
- 3.A.Sathik Patcha
- 4.A.Abdul Appas Ali
- 5.The State of Tamil Nadu
through The District Collector,
Dindigul, Dindigul District.
- 6.The Tahsildar,
Kodaikanal Town,
Kodaikanal Taluk,
Dindigul District.

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the impugned fair and decretal order dated 20-06-2025 and made in I.A.No.87 of 2025 in O.S.No.211 of 2022 on the file of learned Additional District Judge (Fast Track Court) Palani, set aside the same and allow this civil revision petition.



CRP(MD). No.3325 of 2025

For Petitioner

: Mr.S.Srinivasa Raghavan

For Respondents

: Mr.M.Antony Rajadurai for
M/s.Roy & Roy Association for R1 to R4

Mr.F.Deepak for R5 & R6
Special Government Pleader

ORDER

This Civil Revision Petition has been filed challenging the fair and decretal order dated 20.06.2025 passed in I.A. No. 87 of 2025 in O.S. No. 211 of 2022 on the file of the learned Additional District Judge (Fast Track Court), Palani.

2.Heard the learned counsel for the petitioner as well as the learned counsel for the respondents.

3.The learned counsel for the petitioner submitted that the petitioner, as plaintiff, filed a suit for declaration and permanent injunction. The present application was filed seeking appointment of an Advocate Commissioner to measure the suit property with the assistance of a Surveyor and the Village Administrative Officer and to file a report. The said application was dismissed by the trial Court on the ground that it was filed belatedly. Challenging the same, the present revision has been filed.



CRP(MD). No.3325 of 2025

WEB COPY

4.The learned counsel further submitted that the trial Court erroneously took into consideration the alleged period of possession of the revision petitioner as 50 years. However, the scope of appointment of an Advocate Commissioner is only to measure the property with the aid of a Surveyor in order to establish the metes and bounds. Without considering the same, the trial Court dismissed the application.

6.Per contra, the learned counsel for the respondent submitted that there is no infirmity in the order passed by the trial Court. The revision petitioner, who claims to be in possession of the property, cannot seek appointment of an Advocate Commissioner to establish possession in a suit for declaration and injunction.

7.In support of his contention, the learned counsel relied upon the judgment of this Court in Selvamariamammal Vs. Kanagavel in C.R.P. (MD) No. 1701 of 2017, dated 13.11.2018, wherein it has been held as follows:

“10.In the plaint para 10, the plaintiff had specifically averred that the defendant had encroached an extent of 22 feet east to west and 6 feet north to south measuring 132 square feet of vacant land belonging to the plaintiff. When



such being the pleading, it is the bounden duty of the plaintiff to prove the encroachment alleged to have been made by the defendant by adducing oral and documentary evidence. As rightly observed by the trial court sine the defendant had contended that measurements given in the plaint were all wrong, the same is not the reason for seeking appointment of advocate Commissioner.

11. In K.M.A. Wahab and 5 others V. Eswaran and another, supra, the learned Single Judge of this Court held as under:

“6. As far as the factum of possession is concerned, the Court alone gather evidence through the parties and it cannot entrust the said matter to the Advocate Commissioner to collect the evidence. in as much as there is no dispute with regard to the identity of the property, the Trial Court has no reason to appoint the Advocate Commissioner.”

8. The point for consideration is, whether the appointment of an Advocate Commissioner would amount to collection of evidence?. In the present case, the application has been filed only to measure the property with the assistance of a Surveyor to ascertain the metes and bounds. The trial Court has rejected the application on a misconception of facts.



CRP(MD). No.3325 of 2025

9.The learned Special Government Pleader appearing for respondents 5 and 6 submitted that if an Advocate Commissioner is appointed to measure the property with the assistance of a Surveyor, there would be no impediment for them to cooperate. Hence, this Court is inclined to set aside the order passed by the trial Court.

10.Accordingly, this Civil Revision Petition is allowed and the order passed by the trial Court is set aside. The trial Court is directed to appoint an Advocate Commissioner to measure the suit property with the assistance of a Surveyor and file a report. This exercise shall be completed within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

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

17.02.2026

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To

1.The Additional District Judge (Fast Track Court) Palani.

2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.

5/6



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CRP(MD). No.3325 of 2025

N.SENTHILKUMAR, J.

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CRP(MD). No.3325 of 2025

17.02.2026