



C.R.P.(MD)No.3944 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.3944 of 2025

and

C.M.P.(MD)No.20619 of 2025

1.Raja @ Karunamaharaja

Krishna Moorthy (Died)

2.Raman

3.Maruthamalai

4.Jeyakumar

5.Chellapandi

6.Bommuraj

7.Veerammal

8.Anandhavel

9.Sivakumar

10.Podhumani

11.Karpagaraj

12.Shanthi

... Petitioners

-VS.-

1.Murugesan

2.Soundhar

3.Vetrivel

4.Sadaiyandi

5.Balasubramani

6.Sasirekha

7.Vadivel

...Respondents



C.R.P.(MD)No.3944 of 2025

WEB COPY

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order, dated 27.11.2025 passed in I.A.No.1 of 2024 in O.S.No.9 of 2020 on the file of the District Munsif cum Judicial Magistrate Court, Aathoor.

For Petitioners :Ms.M.Lavanya
for Mr.C.Prithiviraj
For Respondents :Mr.K.P.Ramesh

ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned District Munsif cum Judicial Magistrate, Aathoor. in I.A.No.1 of 2024 in O.S.No.9 of 2020, dated 27.11.2025.

2.Heard Ms.M.Lavanya, learned Counsel representing for Mr.C.Prithiviraj learned Counsel for the Revision Petitioners and Mr.K.P.Ramesh, learned Counsel for the respondents.

3.The petitioners are the plaintiffs in the suit in O.S.No.9 of 2020 before the District Munsif-cum-Judicial Magistrate Court, Aathoor and the



C.R.P.(MD)No.3944 of 2025

respondents are the defendants in the suit. The suit was filed for permanent injunction and for other reliefs. During the pendency of the suit, the petitioners herein have filed an interlocutory application in I.A.No.1 of 2024 under Order XXVI Rule 9 of CPC to appoint an Advocate Commissioner to inspect and measure the suit property and file a report with the assistance of a Surveyor. The said application came to be rejected by the learned District Munsif-cum-Judicial Magistrate, Aathoor, vide impugned order, dated 27.01.2025 on the ground that by appointing an Advocate Commissioner, the petitioners have tried to collect evidence. Challenging the same, the present Civil Revision Petition has been filed.

4.Ms.M.Lavanya, learned Counsel for the petitioners submitted that the trial Court has not considered the averments made by the petitioners in the affidavit filed in support of the petition for the appointment of an Advocate Commissioner and that without considering those facts, the trial Court has erroneously passed the impugned order. She also submitted that the prayer sought for by the petitioners is only to measure the property with metes and bounds and there is no other intention on the part of the petitioners to drag on



C.R.P.(MD)No.3944 of 2025

the proceedings. However, the trial Court by observing that there is no ground for appointing an Advocate Commissioner and the petitioners' intention is only to collect the evidence, which is against the law. It is her further contention that the trial Court has passed the impugned order erroneously, which needs interference of this Court.

5.*Per contra*, Mr.K.P.Ramesh, learned Counsel appearing for the respondents submitted that the trial Court has rightly come to the conclusion that since the suit was filed in the year 2020 and when the examination on the side of the plaintiffs was over and when the suit was posted for defendants' side witness, the present application has been filed only to protract the trial. By considering all these facts, the Court below has rightly dismissed the said application, which does not warrant interference of this Court.

6.This Court considered the submissions made on either side and perused the documents available on record.

7.Admittedly, the petitioners have filed a suit in O.S.No.9 of 2020



C.R.P.(MD)No.3944 of 2025

against the respondents for permanent injunction. During the pendency of the suit, the petitioners have filed an application to appoint an Advocate Commissioner to inspect and measure the suit property and file a report with the assistance of a Surveyor. However, the trial Court has rejected the claim of the petitioners on the ground that by appointing an Advocate Commissioner, the petitioners have tried to collect evidence.

8.From the records, it is revealed that an application was filed for the appointment of an Advocate Commissioner to inspect the property and file a report with the assistance of a Surveyor. The trial Court had come to the conclusion that the appointment of Advocate Commissioner is only for collecting evidence. However, this Court is of the view that the claim made by the petitioner seeking for the appointment of Advocate Commissioner is only to inspect the property with the assistance of a Surveyor. The Advocate Commissioner appointed by the Court will only go to the place, where the dispute has arisen and after giving notice on either side, the Advocate Commissioner will inspect and file a report narrating, what is available in the suit property and such exercise will be done with the aid of a Surveyor. Even



C.R.P.(MD)No.3944 of 2025

if there is a dispute with regard to the appointment of Advocate Commissioner, the parties concerned can make their objections during the visit of the Advocate Commissioner to the suit property. Thereafter, even if the parties are aggrieved over the report filed by the Advocate Commissioner, they can examine the Advocate Commissioner for its omission, commission and whatever infirmities, which they found.

9.The report of the Advocate Commissioner is only to aid with regard to the factual aspect. Such an exercise is only for the benefit of the Court to understand the real issue. The scope of appointment of Advocate Commissioner is only to substitute a Court, which cannot go and visit every suit schedule property and therefore, an Advocate Commissioner was appointed. Even if a report is filed, the trial Court has every right to accept the report or to reject the report. The conclusion arrived at by the trial Court is unfounded and unreasonable and without looking into the merits of the case.

10.In fine, the Civil Revision Petition is allowed and the order passed by the learned the District Munsif cum Judicial Magistrate, Aathoor. in I.A.No.1



C.R.P.(MD)No.3944 of 2025

of 2024 in O.S.No.9 of 2020, dated 27.11.2025, is hereby set aside. The Court below is directed to appoint an Advocate Commissioner to visit the suit premises and to file a report with the assistance of a Surveyor. The entire exercise shall be completed within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

24.02.2026

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

cmr

To

The District Munsif cum Judicial Magistrate, Aathoor.



WEB COPY



C.R.P.(MD)No.3944 of 2025

N.SENTHILKUMAR, J.

cmr

C.R.P.(MD)No.3944 of 2025

24.02.2026