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C.R.P.(MD)No.1 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2026

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THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.1 of 2026

and

C.M.P.(MD)No.1 of 2026

Meyyanathan

... Petitioner

-VS.-

Rajagopal (Died)

Mohanasundaram
Hereditary Trustee of
Thirunalloor Sri Viswanatha Swami Temple,
Pudukottai.

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the impugned fair and decreetal order, dated 25.11.2025 in I.A.No.2 of 2025 in O.S.No.42 of 2017 on the file of the District Munsif Court, Aranthangi.

For Petitioner	:Ms.G.Dhivya Bharathi for M/s.KBS Law Office
For Respondent	:Ms.G.Dhanalakshmi for Mr.R.Raja



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ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned District Munsif, Aranthangi, in I.A.No.2 of 2025 in O.S.No.42 of 2017, dated 25.11.2025.

2.Heard Ms.G.Dhivya Bharathi, learned Counsel for the Revision Petitioner and Ms.G.Dhanalakshmi, learned Counsel representing Mr.R.Raja, learned Counsel for the respondent.

3.The petitioner herein has filed a suit in O.S.No.42 of 2017 before the District Munsif Court, Aranthangi, against the respondent herein, for declaration and for permanent injunction. During the pendency of the suit, the petitioner herein has filed an interlocutory application under Order 26 Rule 9 of CPC to appoint an Advocate Commissioner to inspect the suit property and to file a report. The learned District Munsif, Aranthangi, vide impugned order, dated 25.11.2025, has dismissed the said application on the ground that the plaintiff has to prove his case at the time of trial by marking evidence and



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examining the witnesses and as examination of witnesses has been closed, the present petition is not maintainable. Challenging the same, the present Civil Revision Petition has been filed.

4.Ms.G.Dhivya Bharathi, learned Counsel for the petitioner submitted that in the suit property, there existed a canal and the defendant has not denied the same in his affidavit. However, at the time of cross examination, DW-1 with an ulterior motive has denied the existence of the canal. Hence, in order to prove the same, the petitioner has filed the present application to appoint an Advocate Commissioner to inspect the suit property and file a report. However, the Court below has erroneously concluded that the petitioner has to prove the case by marking evidence and examining the witnesses. Since the defendant has suppressed the materials facts and has denied the existence of the canal, the petitioner has filed the present application, however, the Court below without considering the same, has erroneously dismissed the application, which warrants interference of this Court and sought appropriate orders.



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5.*Per contra*, Ms.G.Dhanalakshmi, learned Counsel for the respondent submitted that the suit is of the year 2017 and when the case is ripe for argument, at this stage, an application was filed for appointment of an Advocate Commissioner. The details with regard to the running of canal could be borne out by the Government records, instead of filing the same or calling for the records or filing an application to produce the same, the present application has been filed only with an intention to drag on the proceedings, which has been rightly rejected by the Court below. She also submitted that the Court below after considering entire facts and circumstances of the case, has rightly passed the impugned order and there is no irregularity or infirmity in the impugned order passed by the Court below. Hence, she seeks dismissal of this petition.

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

7.From the perusal of the records as well as the impugned order, it is to be noted that the petitioner has filed a suit for declaration and permanent



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injunction against the respondent. Since the defendant, during the cross examination, has denied the existence of canal in the suit property, the petitioner has filed an application to appoint an Advocate Commissioner to inspect the property and to file a report.

8.From the perusal of the records, this Court is of the view that the contention of the petitioner that since the defendant has not denied the existence of the canal in the suit property and only at the time of cross examination, he denied the same, necessitating the filing of the present application, no prejudice would be caused to the respondent, if the application filed by the petitioner is allowed. Considering the facts and circumstances of the case and in the interest of justice, this Court is inclined to allow this Civil Revision Petition.

9.Accordingly, this Civil Revision Petition is allowed and the order passed by the learned District Munsif, Aranthangi, in I.A.No.2 of 2025 in O.S.No.42 of 2017, dated 25.11.2025, is hereby set aside and the application in I.A.No.2 of 2025 in O.S.No.42 of 2017 is hereby allowed. The learned



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District Munsif, Aranthangi, shall appoint an Advocate Commissioner and who in turn, shall file a report after following due process of law. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

23.02.2026

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

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To

The District Munsif, Aranthangi.



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N.SENTHILKUMAR, J.

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