



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-08-2026

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

CRP No. 302 of 2025

and

CMP No. 1960 of 2025

1. B.Sarala (died)

1. Balasubramani

H/o.B.Sarala, res at No.1/108, Balaji
Koil Street, Irungattukottai A Village,
Sriperumbudur Taluk,
kancheepuram-602117

2.Somasundaram

S/o.Balasubramani and B.Sarala, res at
No.1/108, Balaji Koil Street,
Irungattukottai A Village,
Sriperumbudur Taluk,
kancheepuram-602117

3.Yuvaraj

S/o.Balasubramani and B.Sarala, res at
No.1/108, Balaji Koil Street,
Irungattukottai A Village,
Sriperumbudur Taluk,
kancheepuram-602117

Petitioner(s)

Vs

1. Krishnan

No.4, thulukkanathamman Koil Street,
Karasangal Village,
Sriperumbudur-601301

2.Kannan

S/o.Krishnan, Res at No.4,
Thulukkanathamman Koil Street,
karasangal Village,
Sriperumbudur-601301



3.Munusamy

Res at No.5, Thulukkanathamman Koil
Street, karasangal Village,
Sriperumbudur-601301

4.Kannan

Res at No.5, Thulukkanathamman Koil
Street, karasangal Village,
Sriperumbudur-601301

Respondent(s)

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair order and decretal order dt. 13.08.2024 in IA No.6/2024 in OS No.292/2019 on the file of the Learned Addl. Subordinate Judge at Kancheepuram

For Petitioner(s): Mr.M.V.Seshachari

For Respondent(s): Mr.K. Kishore Kumar

ORDER

This civil revision petition has been filed, challenging the impugned order dated 13.08.2024 passed by the Additional Sub Court, Kancheepuram in I.A.No.6 of 2024 in O.S.No.292 of 2019.

2. In the aforesaid order, the application filed by the petitioners/plaintiffs, seeking for the appointment of an Advocate Commissioner for the purpose of local inspection to locate and identify the suit scheduled property with the assistance of a Taluk Surveyor and to note down the existence of hut and foundation of building and other particulars, has been dismissed on the ground



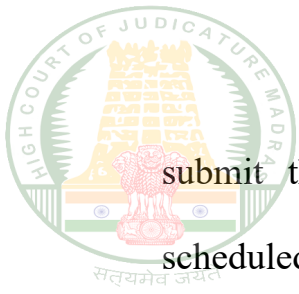
that the application has been filed belatedly.

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3. Admittedly, the application was filed by the petitioners/plaintiffs, seeking for the appointment of an Advocate Commissioner only in the year 2023, just before commencement of the trial in the suit. The trial Court has also taken note of the fact that the suit was filed in the year 2019 and the written statement was filed on 19.02.2021 itself and the issues were also framed by the Court on 06.03.2021. But the application came to be filed by the petitioners/plaintiffs only after the petitioners/plaintiffs did not come forward to conduct the trial on several hearing dates.

4. Since the application was filed by the petitioners/plaintiffs belatedly, the trial Court dismissed the petitioners' application.

5. The learned counsel for the petitioners would submit that since the respondents/defendants have pleaded in their written statement that the suit schedule property is a Government poramboke property and only in order to identify the property correctly, there became a necessity for the petitioners/plaintiffs to file I.A.No.6 of 2024 seeking for appointment of an Advocate Commissioner as prayed for in the said application. He would also



submit that the petitioners/plaintiffs are the absolute owners of the suit scheduled property and they have already filed the revenue records to substantiate their case along with the suit. On the other hand, he would also submit that no prejudice will be caused to the respondents/defendants if an Advocate Commissioner is appointed as prayed for in I.A.No.6 of 2024.

6. On the other hand, the learned counsel for the respondents/defendants would submit that the petitioners/plaintiffs are attempting to collect evidence by filing I.A.No.6 of 2024, seeking for appointment of an Advocate Commissioner with the help of a Taluk Surveyor. He would also reiterate that the application has been rightly dismissed by the trial Court on the ground that the application was filed belatedly by the petitioners/plaintiffs.

7. The suit has been filed for declaration of title and for permanent injunction by the petitioners/plaintiffs. The petitioners/plaintiffs have filed documents along with the plaint to support their case. It is the contention of the respondents/defendants that they are in possession of the suit schedule property for more than forty years.



8. As seen from their written statement filed in the suit, the suit is of the year 2019, but whereas the application was filed by the petitioners, seeking for appointment of an Advocate Commissioner only in the year 2023. Though the learned counsel for the petitioners/plaintiffs during the course of his submission would submit that there was a delay on the part of the petitioners/plaintiffs to file the application only due to the fact that the original plaintiff namely B. Sarala died within 2 months from the date of framing of issues by the trial Court.

9. In the impugned order, the trial Court has dismissed the petitioners' application only on the ground that the said application has been filed belatedly. The trial Court has taken note of the fact that the petitioners had repeatedly sought adjournments when the suit was posted for trial and only thereafter, the petitioners/plaintiffs chose to file I.A.No.6 of 2024 in O.S.No.292 of 2019 seeking for appointment of an Advocate Commissioner.

10. Being a suit for declaration to declare that the petitioners/plaintiffs are the absolute owners of the suit schedule property, only through oral and documentary evidence the petitioners/plaintiffs will have to establish their title. In the application filed, seeking for appointment of an Advocate Commissioner, the petitioners/plaintiffs seek the assistance of the Advocate Commissioner and

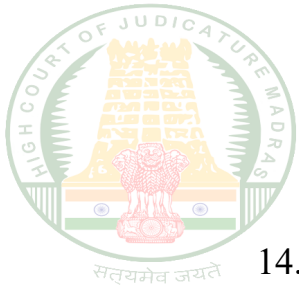


the Surveyor only to locate and identify the suit schedule property, which is legally impermissible as it will amount to collecting evidence to support the case of the petitioners/plaintiffs in the suit.

11. Independently, the petitioners/plaintiffs will have to produce oral and documentary evidence in order to prove their title over the suit scheduled property and they cannot seek the assistance of an Advocate Commissioner for the said purpose as admittedly the application was filed by the petitioners/plaintiffs only for the purpose of local inspection to locate and identify the suit schedule property with the assistance of a Taluk Surveyor.

12. Admittedly, the application was also filed by the petitioners/plaintiffs only during the stage of the trial. The trial Court has also taken note of the fact that only after several adjournments granted to the petitioners/plaintiffs at the time of trial, the petitioners/plaintiffs chose to file I.A.No.6 of 2024.

13. This Court does not find any infirmity in the impugned order, dismissing the application filed by the petitioners/plaintiffs in I.A.No.6 of 2024.

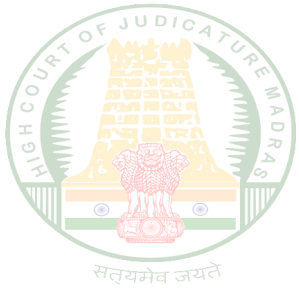


14. Since there is no merit in this civil revision petition, the civil revision petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

04-08-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To
The Subordinate Court, Kancheepuram.



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ABDUL QUDDHOSE J.

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