



WEB COPY

CRP No. 2790 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-04-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 2790 of 2026

AND

CMP NO. 11506 OF 2026

1. Kalasamy (Died) 1.Marasamy,
S/o.Pomma Naicker,
Kunthukaalampalaiyam,
Birammdesam Village and post,
Anthiyur Taluk, Erode Dist.
2. Ravi,
S/o.Chenna Naicker,
Kunthukaalampalaiyam,
Birammdesam Village and post,
Anthiyur Taluk, Erode Dist.
3. Saminathan,
S/o. Chenna Naicker,
Kunthukaalampalaiyam,
Birammdesam Village and post,
Anthiyur Taluk, Erode Dist.
4. Mageshwaran,
S/o.Marasamy,
Kunthukaalampalaiyam,
Birammdesam Village and post,
Anthiyur Taluk, Erode Dist.

..Petitioner(s)

Vs

Revathy,
W/o.Mohankumar,
279, Dank Thottam,
Thamma Naickkanur,
Sakthi Nagar Via,
Birammdesam Village and Post,
Anthiyur Taluk,
Erode District.



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..Respondent(s)

CMP No. 11506 of 2026

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S/o. Chenna Naicker,
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Birammdesam Village and post,
Anthiyur Taluk, Erode Dist.
4. Mageshwaran,
S/o.Marasamy,
Kunthukaalampalaiyam,
Birammdesam Village and post,
Anthiyur Taluk, Erode Dist.

..Appellant(s)

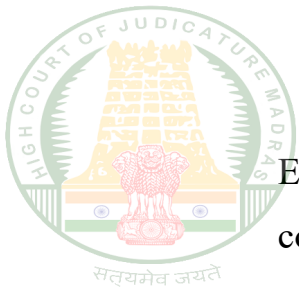
Vs

Revathy,
W/o.Mohankumar,
279, Dank Thottam,
Thamma Naickkanur,
Sakthi Nagar Via,
Birammdesam Village and Post,
Anthiyur Taluk,
Erode District.

..Respondent(s)

CRP No. 2790 of 2026

To set aside the Order dated 19.01.2026 made in I.A.No.10
of 2025 in O.S.No.330 of 2019 on the file of District Munsif, Anthiyur,



Erode District, and to direct the Trial Court, to appoint the advocate commissioner by allowing this CRP and thus render justice.

CMP No. 11506 of 2026

To pass an order of interim STAY to stay of all further proceedings of O.S.No.330 of 2019 on the file of the District Munsif, Anthiyur, Erode District, pending disposal of the above Civil Revision Petition and thus render justice.

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For Petitioner(s): MR.S.Lakshmanasamy

For Respondent(s): MR.B.Kumarasamy

Order

This Civil Revision Petition is filed challenging the fair and decretal order dated 19.01.2026 made in IA.No.10 of 2025 in OS.No.330 of 2019 passed by the learned Trial Judge, dismissing the application filed by the defendant for appointment of an Advocate Commissioner.

2. Before the Trial Court, the petitioner/defendant had filed an application in IA.No.10 of 2025 seeking appointment of an Advocate Commissioner to measure the suit property with the assistance of a qualified Surveyor, in order to establish the existence of the pathway in dispute. The Trial Court, however, dismissed the said application



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holding that appointment of a Commissioner cannot be resorted to for the purpose of collecting evidence. Aggrieved by the same, the present Civil Revision Petition has been filed.

3. The learned counsel for the petitioner would submit that, pursuant to an earlier ex parte order, an Advocate Commissioner was appointed, who had visited the property and filed a report. However, on perusal of the said report, it is seen that certain aspects, particularly with regard to the existence of the pathway, have not been properly addressed and the findings are erroneous. Hence, in order to effectively adjudicate the dispute, the petitioner seeks appointment of a Commissioner afresh.

4. Per contra, the learned counsel appearing for the respondent/plaintiff would contend that an Advocate Commissioner had already been appointed, who inspected the property and submitted a report. It is further submitted that an earlier application filed by the petitioner for similar relief was dismissed and the same was not challenged. Therefore, filing of the present application after a considerable lapse of time is not maintainable.

5. Heard the learned counsel on either side and perused the materials available on record.



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6. It is not in dispute that an Advocate Commissioner had already been appointed and that he has submitted a report. However, it is also seen that the said report was filed pursuant to an ex parte proceeding. The dispute between the parties, particularly with regard to the existence of the pathway, still remains unresolved. In such circumstances, in order to ensure a fair and proper adjudication of the issues involved, this Court is of the view that a fresh inspection is warranted. Accordingly,

(i) The order passed by the Trial Court is set aside and the learned Trial Judge is directed to re-issue warrant to the very same Advocate Commissioner to inspect and measure the suit property with the assistance of a qualified Surveyor, in the presence of both parties, and to file a comprehensive report specifically dealing with the existence and location of the pathway.

(ii) The entire expenses for such commission shall be borne by the petitioner/defendant.

(iii) The Advocate Commissioner shall complete the exercise and submit the report within a period of twelve (12) weeks from the date of receipt of a copy of this order.

(iv) Thereafter, the Trial Court shall proceed with the suit in accordance with law.



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T.V.THAMILSELVI J.

JRS

7. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

30-04-2026

JRS

To
The District Munsif, Anthiyur, Erode District.

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