

Somammal Vs Dilli Manthadi

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Court : Chennai

Decided On : Mar-05-2026

Judge : Honourable Mrs.Justice T.V.Thamilselvi

Appeal No. : CRP/1099/2026

Appellant : Somammal

Respondent : Dilli Manthadi

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-03-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI CRP No. 1099 of 2026 &
CMP.No.5748 of 2026

1. Somammal W/o. Late Munikrishnan,

2. Nagesh S/o. Late Munikrishnan, ..Petitioner(s) Vs

1. Dilli Manthadi S/o. Late Ganga Manthadi,

Prayer : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order Dt. 18-12-2025 passed in the IA No.2 of 2025 in OS No.77 of 2025 on the file of District Munsif Cum Judicial Magistrate at Pallipet . For Petitioner(s): Mr.V.Manohar

ORDER

Challenging the impugned Order passed by the trial in dismissing the application filed in I.A.No.2 of 2025, the present Civil Revision has been preferred by the defendants.

2. The respondents/plaintiffs had filed the suit in O.S.No.77 of 2025 for

declaration that their easementary right over the cart track in the plaint plan in C schedule property by prescription to reach their 'A' schedule mentioned property for taking their tractor and cattle etc. and for consequential injunctions. In the pending suit, the plaintiffs have filed an application for appointment of an Advocate Commissioner to inspect the suit properties along with a Taluk Surveyor and to note down its physical features. The said application was objected by the defendants stating that there is no necessity for appointment of the Advocate Commissioner and the plaintiffs have not impleaded necessary parties in the suit. The trial Court had allowed the said application by appointing an Advocate Commissioner to inspect the suit properties along with Page2 of 5

the assistance of a Taluk Surveyor and to file a detailed report and plan along with photographs. Challenging the same, the defendants have filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioners argued that the

plaintiffs are using Ammaneri Road and the promboke land which is nearby their houses and lands and they had suppressed the original

facts in which on the northern side there is patta land owned by Vijayan and on the Southern side also patta land belonged to one Lalitha and the plaintiffs have not impleaded necessary parties to the proceedings. Since there is pathway available for the plaintiffs,, without including necessary parties, appointment of an Advocate Commissioner is not warranted. But the trial Court had erroneously appointed the Advocate Commissioner, which requires interference.

4. A perusal of entire facts indicate that the prayer of the plaintiffs

includes declaration of easementary rights over the cart track and also for mandatory injunction to restore the cart track which was destroyed by the defendants. Considering the said prayer as well as the reason assigned by the plaintiffs, the trial Court had appointed the Advocate Commissioner to note down the physical features. The objection of the defendants is that necessary parties have not been impleaded in the suit. In order to adjudicate the relief of Page3 of 5

easementary right claimed by the plaintiffs, appointment of the Advocate Commissioner is just and necessary, more particularly the relief of mandatory injunction claimed by the plaintiff and hence, the Order of the trial Court requires no interference. With regard to non impleading of necessary party, liberty is granted to the revision petitioners to file an additional written statement by raising all his defence. Both parties are directed to co-operate with the Advocate Commissioner to execute the warrant and the Advocate Commissioner is also directed to point out whether there is any alternative pathway available to the plaintiffs.

5. With the above observations, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed. 05-03-2026
Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No vrc To The District Munsif cum Judicial Magistrate,
Pallipattu. Page4 of 5

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