

**IN THE COURT OF THE PRL.SENIOR CIVIL JUDGE
MEDCHAL MALKAJGIRI DISTRICT, AT KUSHAIGUDA**

Present : Sri Ravinder Sattu,
Prl.Senior Civil Judge
Medchal-Malkajgiri District
at Kushaiguda

Friday, 31st day of July, 2026

**I.A.No.700 of 2026
in
O.S.No.356 of 2024**

Between :

Smt. M.R. Bharathi, W/o M.B.Raj Kumar.

Aged 55 years, Occ: Housewife, R/o H.No.2-3-155/1,

Krishna Nagar Colony, Machabollaram, R.R.District, Hyderabad.

...Petitioner/Plaintiff

AND

1. Smt.Bonthala Ratnamala, W/o. Sanjeeva Rao,

Aged 40 years, Occ: Housewife, R/o H.No. 2-4-28/31, Venkateswara
Colony, Behind Select Talkies, Alwal, Malkajgiri (M), R.R.District.

2.G. Bhasker @ Gaddipally Bhasker, S/o. Balaiah,

Aged 40 years, Occ:Business, R/o H.No. 5-1, Behind GDR School,
Gajwel (V & M), Medak District.

3.Smt G. Haimavathi, W/o.G. Baswaraju, Aged 46, Occ:Housewife,
R/o H.No. 2-22-1-91/SI, S-1, Sri Sainath Towers, Opposite to KPHB
Colony, Kukatpally, Hyderabad, R.R. District.

4.Smt. Bonala Sharada, W/o. B. Bhujangam,

Aged 51 years, Occ: Housewife, R/o H.No. 1-7-1/2,
Near Sree Bakery, Temple Alwal,
Malkajgiri (M), R.R.District, Hyderabad-10.

5.J.S.D. Shanker, S/o. J. Kameswar Rao, aged 44 years,
Occ: Employee, R/o. H.No. 1-5-501/1, Plot No. 111,
Ayyappa Colony, Suryananger, Alwal, R.R. District, Hyderabad-10

6. M. Srinivasa Sharma, S/o. Kripacharyulu, Aged 47 years,
Occ: Employee, R/o 1-5-501/2, Plot No. 111, Ayyappa Colony,
Suryananger, Alwal, R.R.Dist. Hyderabad-10.

7. H.R. Shanker, S/o.H. Ramaswamy, Aged 43 years,
Occ:Pvt.Service, R/o.H.No.1-5-501/1, Plot No.113,
Ayyappa Colony, Suryanagar, Alwal, R.R.District, Hyderabad-10.

8. S. Uma, W/o.H.R. Shanker, Aged 43 years,
Occ: Pvt. Service, SLOANO 1-5-Ival RD 113,
Ayyappa Colony, Suryananger, Alwal, R.R. District, Hyderabad-10

10.G. Venkat Ram Reddy, S/o.G.Janardhan Reddy, Aged 40 years,
Occ:Business, R/o.H.No. 17-26/11, Ramnagar Colony, R.R. District,
Hyderabad - 10.

11.G.Kondal Reddy, S/o.G.Janardhan Reddy, Aged 39 years,
Occ:Business, R/o.H.No.17-26/11, Ramnager Colony, Alwal,
R.R. District, Hyderabad - 10.

12. T. Thirumal Rao. S/o. Late Kishan Rao,
Aged 71 years, Occ: Agriculture, R/o. Flat No.2, Sireesh Emerlad
Apartments, in front of Patel Agencies, Loyala Academy Road,
Alwal, Hyderabad, Malkajgiri (M), R.R. District, Hyderabad - 10.

13 T. Purushotham Rao, S/o. Late Venkat Rao, Aged 59 years,
Occ: Business, R/o.H.No 160-1-14, Rudra Road, Lothukunta, Alwal,
Secunderabad - 15.

14.Smt K. Vasantha, W/o. Late A. Sathyanarayana, Aged 59 years,
Occ:Housewife, R/o. 1435, Poiner Bazar, Bollaram, Secunderabad - 10.

15. Srinivas, S/o. Not known, Aged 44 years, Occ: Business,
R/o.Shop No. 1-7-1/38/G-2, Sree Bakery, Temple Alwal Main Road,
Malkajgiri (M), R.R. District, Hyderabad-10.

16. Raghu. S/o.Not known, Aged 38 years,
Occ:Business, R/o. Shop No. 1-7-1/38/G-2,
Sree Bakery, Temple Alwal Main Road,
Malkajgiri (M), R.R. District, Hyderabad-10.

17. Jennifer Sophia W/o. Sri. Joseph Guildon,
aged about 37 years, Occupation:House wife,
R/o. H.No.1-2-8/7/1, Kiran Sarada, Domalaguda, Hyderabad.

....Respondents/Defendants

This Petition is coming up before me for final hearing on 23-07-2026 in the presence of Sri T.Satyanarayana, Counsel Petitioners and of Sri Police Venkat Reddy, Counsel for Respondent Nos.1 and 17 and the matter is having been stood over for consideration till this day, the court delivered the following:

:: O R D E R ::

1. This petition is filed under order 26 Rule 9 of Code of Civil Procedure (for short 'code') to appoint Advocate Commissioner to survey the suit schedule property with the assistance of Municipal Surveyor.

PETITION/SCHEDULE PROPERTY

To survey the suit schedule property the House bearing No.1-5-502/3 (Old H.No.1-5-878/1/11 on plot No.112 extent 240 Sq.yards (plot area) in Sy.No.38, with the assistance of Municipal survey situated at Surya Nagar Colony, Old Alwal under GHMC Alwal circle, Alwal Village, Malkajgiri Mandal, R.R. District.

1. To locate suit schedule property by fixing boundaries in survey
2. To prepare Pachanamma of the suit schedule property with proper sketch by specification in the presence of panch witnesses in survey.

2. Brief facts of affidavit:

i) Smt.M.R.Bharathi who is plaintiff filed affidavit and she submitted that, she filed a suit for declaration and recovery of possession, against the defendants over the suit schedule property as she was absolute owner of the suit schedule house bearing No.1-5-502/3 (Old No.1-5-878/1/112) in Plot No.112, Surya Nagar Colony in Sy.No.38 of Alwal Village, Malkajgiri Mandal, R.R District.

ii) Plaintiff submitted that, T.Venkat Rao was the pattedar of Agriculture land bearing Sy.No.35, he divided the said land into residential plots along with other adjacent Sy.No.39 and 42 which belongs to his coparceners; during the life time of T.Venkat Rao sold the suit schedule plot No.112 admeasuring 300 sq.yards to one P.Bala Krishna, S/o.Mallaiah, the said Bala Krishna sold to K.Vasanth (D14) through an unregistered notarized document, dt.16.1.1987; later on in order to give road to the adjacent southern side plot holders, the plot dimensions had been reduced to 240 Sq.yards; after that defendant No.14 constructed a room over the said plot and municipality assessed the same and gave Door no.1-5-502/3 (Old No.1-5-878/1/112; the defendant No.14 in order to get a registered document, to perfect her title requested the original owners legal heirs i.e., T.Purushotham Rao (D13) as original owners passed away; after fulfilling the demands the defendant No.14 got registered sale deed bearing No.338/2009, dt.20.2.2009 which is being executed by T.Purushotham (D13). K.Vasanth (D14) executed a registered Agreement of Sale cum GPA bearing No.342/2009 in favour of M.B Raj Kumar; that the M.B Raj Kumar executed registered sale deed in favour of plaintiff vide document No.1739/2009, dt.30.7.2009; that she was the absolute owner and possessor of suit plot and her vendor D14 got Electricity and Municipal

Water connection and she was in continuous possession and enjoyment over the suit plot till 8.11.2009; that she was forcibly disposed by the defendant Nos. 1, 2, 10, 11, 15 and 16 with the aid and collusion of police; that with a pre-planned the defendant No.1 and 2 demolished the room over the suit plot and removed the compound wall and forcibly occupied the suit plot; that the defendants No.1 and 2 are allegedly claiming Plot Nos. 115 and 116 are allegedly purchased from D3 and D4; the Plot No.115 is existing on eastern side to the suit plot.

iii) Plaintiff submitted that, the above suit is coming for trial; meanwhile she filed the receive document petition, implead petition, Order 39 Rule 1 petition and same are pending; but the proposed respondent No.17 is raising construction by dismantling her old constructed room during the pendency of the suit in lispendency to cause to this plaintiff, as such she filed the relevant specific photographs and other relevant material to show his illegal constructions, as such she filed the said petitions to restrain his illegal constructions, as such she filed the said petitions to restrain his illegal constructions over the suit schedule property and said petitions are pending before this Hon'ble Court.

iv) Plaintiff submitted that, the defendant No.1 and 2 stated in their written statement that the vendor of Defendant 1 and Defendant No.2 i.e., defendant 3 and Defendant No.4 have purchased their plot No.115 and 116 from T. Thirumal Rao (D12) under registered sale deed No. 1129/2003, and further stated that there is no plot No.112 on the site, but the document No.1129/2003 clearly shows that western side of the schedule of property mentioned in said document is plot No. 112 and the plan annexed also clearly shows that western side of said plot

No.115 and 116 is plot No.112 i.e., plaintiff plot, and the defendants No.1 and 2 clearly admitted that in para No.11 of their written statement it is submitted that the plaintiff purchased her property in Sy.No.38.

v). Plaintiff submitted that, in view of the illegal acts of the Proposed respondent No.17 and his vendor defendant No.1 illegal construction over the suit schedule property, but as per their version misguiding this Hon'ble court through Plot Nos. 115 and 116 extent 236 Sq.yards and made fraud to cause loss to this plaintiff by way of illegal acts, as such she prayed to appoint Advocate Commissioner to trace out illegal occupation of the proposed respondent No.17 and his vendor defendant No.1 in the above case over the suit schedule property with the assistance of Municipal Surveyor by surveying the suit schedule property in the said survey number to find out her suit schedule property from variation of defendant No.1 alleged plots in said survey number, otherwise his illegal occupation does not declare title and possession over the suit schedule property. Hence the affidavit.

3. Defendant No.1 and 17 filed counter and submitted that, 1. It is submitted that on the earlier occasion the Petitioner filed L.A. No. 407/2026 seeking an a seeking appointment of an advocate commissioner to survey the suit schedule property with the assistance of the municipal surveyor and in the above said I.A. these Respondents have filed detailed counter and after going through the pleadings of both the parties this Hon'ble Court dismissed the I.A. No.407/2026 on 02-04-2026 with a finding the Application filed by the Petitioner at this juncture is not maintainable instead of leading the evidence the Petitioner has come up with present I.A. It is further submitted that as on the date of dismissal of the above said I.A. the Petitioner has filed the

present application on 02-04-2026. It is submitted that once the application is dismissed the second application is not maintainable for the same relief; the plaintiff only with an intention to protract the litigation and waste the valuable time of this Hon'ble Court time and again coming with frivolous application which are not maintainable.

ii). The defendant No.1 and 17 submitted that, the municipal surveyor is not competent to demarcate and fix the boundaries of the survey numbers; the revenue department i.e., Assistant Director Survey and Land Records and Mandal Surveyor are the competent persons to demarcate and fix the boundaries of the survey numbers not by the municipal surveyor as stated by the Petitioner in her pleadings; the Petitioner has not chosen to mention the boundaries of the petition schedule property, she has filed vague application before this Hon'ble Court only with an intention to waste the valuable time of this Hon'ble Court and harass the Defendant.

iii). Defendant No.1 and 17 submitted that, that the plaintiff is not sure about the suit schedule property where it is situated when the Petitioner is in dilemma in identifying her property, how the surveyor can locate and fix the boundaries of the suit property; they submitted that, the Petition filed by the Petitioner clinchingly shows that to locate the suit schedule property by fixing the boundaries in survey numbers. They submitted that, it is well settled law the Survey department can fix the boundaries of only survey numbers not the boundaries of the individual plots in any of the layout plan accorded by the competent authorities.

iv). Defendant No.1 and 17 submitted that, in case the plaintiff is in possession and enjoyment of the suit schedule property at any point of time basing on the documents filed by her she may not drag the proceedings before the Hon'ble Courts since 2009; they submitted that, the suit is dismissed for default on 13-04-2015 and restored at the end of 2024; they submitted that, many developments have taken place in and around the suit survey numbers; the plaintiff is claiming the suit schedule plot in Sy. No. 38 of Surya Nagar Colony, Under GHMC Alwal Circle and Malkajgiri District and this defendants are claiming the plots bearing No. 115 and 116, Adm. 236 Sq. Yda., in Sy. No. 39 & 42 of Jonnabanda, Ayyappa Nagar, Under GHMC Alwal Circle and Mandal, Medchal Malkajgiri District; they submitted that the Defendant No. 1 has purchased the plot No. 115 and 116, through Regd Sale Deed bearing Doct. No. 3747/2004, Dated 02-11-2004 Regd, in the office of SRO Vallabh Nagar, since the date of purchase she was in possession and enjoyment of the above said plots by constructing the residential house and constructed the compound wall around the above said plots; they submitted that the Defendant No.1 has obtained the electricity connection, water connection and paid upto date property tax in respect of the premises bearing No. 1-5-502/1/1 on Plot No. 115 and 116 in Sy. No. 39 & 42 of Jonnabanda, Ayyapa Nagar, Alwal Village.

v). Defendant No.1 and 7 submitted that, Defendant No.1 after dismissal of the above said case due to her urgent financial necessities sold the premises bearing No.1-5-502/1/1 (Old No.5-812/3/9) constructed on Plot No. 115 and 116, admeasuring Plotted area 236 Sq. Yds., in Sy. No.39 and 42, situated at Jonnabanda, Ayyappa Nagar, Under GHMC Alwal Circle and Mandal, Medchal Malkajgiri District; they submitted that, the Defendant No.1 sold the above said property on

16-05-2015 through Regd. Sale Deed bearing Doct. No. 2035/2015, Dated 16-05-2015 Regd., in the office of SRO Vallabh Nagar in favour of Smt. Jennifer Sophia i.e., Defendant No.17. They submitted that, the Defendant No. 17 has dug a borewell after obtaining necessary permission from the Tahsildhar Alwal Mandal. They submitted that, at the time of digging the bore well the plaintiff herein and her associates created a lot of nuisance.

vi). Defendant No.1 and 17 submitted that, after digging the borewell the Defendant No.17 has obtained necessary permission from the GHMC Alwal Circle for construction of G + 2 Floors over the above said plots; they submitted that, when the Defendant No.17 tried to commence the construction over the above said plots then these Defendants made application before the Tahsildhar, Alwal Mandal on 20-08-2024 for demarcation and fixation of the boundaries of Sy.No.38, 39 and 42 of Jnnabanda, Ayyappa Nagar and simultaneously these defendants made a representation before the Deputy Commissioner, Alwal circle for identification of the premises bearing No.1-5-502/1/1 on Plot No.115 & 116 in Sy.No.39 & 42, Jonnabanda, Ayyappa Nagar, Alwal.

vii). Defendant No.1 and 17 submitted that, after receipt of the Defendant No.1 representation the Deputy City Planner addressed a letter to Tahsildhar requesting to confirm whether the Defendant No.1 Plot No. 115 & 116 with premises comes in Sy. No.38 of Surya Nagar or in Sy.No.39 & 42 of Ayyappa Nagar, Jonnabanda, as per the official correspondence. They submitted that, at the requisition of GHMC Alwal Circle the Tahsildhar Alwal deputed the mandal surveyor to demarcate and fix the boundaries of the above said property; they submitted that, the mandal surveyor along with town planning officer Alwal conducted

the survey and found that the plot bearing No. 115 and 116 belongs to these defendants is situated in Sy No.39 & 42 of Ayyappa Nagar, Jonnabanda, Alwal and the plaintiff plot is in Sy. No.38; accordingly, the mandal surveyor has prepared the location sketch plan and submitted a report to the Tahsildhar; they submitted that the plaintiff is pretty well aware about the conducting of the survey by the Tahsildhar with the help of town planning officer.

viii). Defendant No.1 and 17 submitted that, appointing the advocate commissioner at the peak stage of the case proceedings is nothing but gathering of the evidence; they submitted that at any angle the application filed by the plaintiff is not at all maintainable in the eye of law as such the municipal surveyor is not competent to fix the boundaries of the disputed survey numbers. They submitted that there is no such post is available in the municipalities with a designation municipal surveyor to demarcate and fix the boundaries of the properties. Plaintiff submitted that, the disputes pertaining to the layout approval of buildings, safety of existing structures etc., are vested in the town planning department and when there is no such survey department is available in the municipalities or GHMC there is no meaning in appointing an advocate commissioner to fix the boundaries of the schedule property with the help of municipal surveyor. They submitted that, in the counter filed by these Respondents in L.A. 407/2026 in O.S. NO. 356/2024 a specifically stated there is no such surveyor post is available in the municipalities or GHMC even after going through the counter in the above said I.A. and again the plaintiff has sought the same relief in the present application. Hence prayed to dismiss the petition.

4. Heard both sides. Perused material.

5. **Now the point for consideration is :**

“Whether advocate commissioner be appointed to or not”?

6. **POINT:**

Learned counsel for plaintiff submitted that, appointment of advocate commissioner is necessary to identify the petition schedule property.

7. Per contra, learned counsel for defenant No.17 argued that, there is no provision of surveyor of municipality in law; the plaintiff already filed IA No.407/2026 for the same relief the same is dismissed hence the present petition is not necessary and hit by previous order, prayed to dismiss the petition.

8. Once again we reproduce the prayer of plaintiff that, to appoint Advocate Commissioner to survey the suit schedule property with the assistance of Municipal Surveyor.

9. It is prayed to appoint advocate commissioner to survey the suit schedule property as per petition schedule to prove real facts over the suit schedule property with the assistance of Municipal Surveyor erecting the boundaries stones.

PETITION SCHEDULE PROPERTY

To survey the suit schedule property the House bearing No.1-5-502/3 (Old H.No.1-5-878/1/11 on plot No.112 extent 240 Sq.yards (plot area) in Sy.No.38, with the assistance of Municipal

surveyor, situated at Surya Nagar Colony, Old Alwal under GHMC Alwal circle, Alwal Village, Malkajgiri Mandal, R.R. District.

1. To locate suit schedule property by fixing boundaries in survey.
2. To prepare panchanama of the suit schedule property with proper sketch by specification in the presence of panch witnesses in survey.

10. The case of the plaintiff is that, T.Venkat Rao being the pattedar of Survey No.35 divided the land into residential plots along with other survey numbers 39 and 42 which belongs to his coparceners; he sold schedule Plot No.112 extent 300 sq.yards to P.Bala Krishna. Said Bala Krishna sold to defendant No.14 through unregistered sale deed dated 16-1-1987. Later the dimension of plot reduced as part of the land gave to road, therefore, now the plot extent is 240 sq.yards. Subsequently, defendant No.14 constructed house vide bearing o.1-5-503/3 (Old No.1-5-878/1/112). The defendant No.1 in order to get registered document from original owners but original owner defendant No.13 passed away. However, defendant No.14 got registered sale deed vide No.338/2009 executed by Defendant No.13. That, defendant No.14 executed a registered agreement of sale-cum-GPA vide No.342/2009 in favour of M.D.Raj Kumar. Said M.D.Raj Kumar executed registered sale deed in favour of plaintiff herein vide document No.1739/2009. Thus the plaintiff is the absolute owner of the suit schedule property.

11. The plaintiff filed the present suit seeking the relief to declare the plaintiff as the absolute owner of suit schedule property; to grant a decree for vacant possession of the suit schedule property in favour of plaintiff by evicting the defendant and further to grant mesne profits @ 2000/- from 8-11-2019 onwards.

12. The established law is that, the plaintiff should establish his title in a suit for declaration and recovery of possession vide **A.Subramanyan and another Vs.R.Panner Selvam reported in (2021) 3 SCC 675**. *Hon'ble Supreme Court has categorically held at para No.28 "we do not find any error in view of the High Court that, it was not necessary to enter into the validity of Ex.A1 and A2 and the the suit for injunction filed by the plaintiff deserved to be decreed on the basis of admitted establishment possession of the plaintiff. We, thus, do not find any error in the judgment of the High Court allowing the second appeal filed by the plaintiff by setting aside the judgment of the first appellate court and restoring that of trial court".*

13. As per the pleadings we can see that, P.Venkat Rao transferred the plot in specific boundaries in favour of P.Bala Krishna to an extent of 300 sq.yards, Bala Krishna in turn through unregistered notarized document transferred in favour of K.Vasantha, however, it was reduced to 240 sq.yard. Said Vasantha constructed house No.1-5-502/3. Once house is constructed and house Number is given, no one can presume the house de-existed. However, the defendant No.14 got registered document from original pattedar namely T.Purushotham vide document No.338/2009. Later K.Vasantha transferred the same in favour of plaintiff vide document No.1739/2009. Once registered documents are executed and house number is given the disappearance of plot cannot be possible.

14. The allegations of the plaintiff is that, the defendant No.1 and 2 pleaded that, the defendant no.3 and 4 have purchased Plot No.115, 116 from defendant No.12 vide document No.1129/2003. Further there is no

plot No.112 but the document No.1129/2003 is clearly shows that, western side of the schedule property mentioned in document No.1129/2003 is plot no.112 and the plan annexed also clearly shows that, western side of Plot No.115 and 116 is Plot No.112 i.e., Plaintiff plot. It is averred that, in the written statement defendant No.1 and 2 clearly admitted in Para No.11 the plaintiff purchased property in Sy.No.38. Further the proposed defendant No.17 is in occupation of petition schedule property and raising construction.

15. As seen the plaintiff's case that, their property is in Sy.No.35 whereas the defendants alleged that, the plaintiffs property is in Sy.No.38. As seen the plaint averments and written statement that, the registered document started on 20-02-2009 when T.Purushotham who is the defendant No.13 executed registered sale deed No.338/2009 whereas the defendants document pertains to 2003 vide document No.1129/2003. As per plaint, there were unregistered notarized documents in favour of defendant No.14.

16. As contended by learned counsel for defendant No.17 that, the plaintiff filed IA No.407/2026 for the same relief and dismissed. As seen IA No.407/2026, we can see that, the plaintiff filed for the same relief against the same parties and same property. The doctrine of resjudicata applies also to different stages of the same suit or proceedings. If any interlocutory order decides a controversy in part between parties, such decision would bind the parties and operate as resjudicata at all subsequent stages of the suit and a court will not permit the party to "set the clock back" during the pendency of the proceedings vide **Satyadhyan Ghosal v. Deorajin Debi** AIR 1960 SC 941.

17. Having discussed above and the burden lies on the plaintiff to prove title through documentary evidence but the appointment of commissioner cannot become fishing evidence. The plaintiff seeking in the present petition to locate suit schedule property through Municipal Surveyor which is not know to the law. At this juncture, learned counsel for plaintiff argued that, they are seeking to appoint advocate commissioner only. This argument is also no more sustained because advocate does not possess any technical qualifications unless assisted by an expert. The plaintiff is at liberty to lead the documentary and oral evidence. This is suit pertain to 2009, at the fag end of suit, the present application filed by plaintiff, instead of leading evidence. Accordingly, point is answered against plaintiff.

18. **In the result**, the petition is dismissed. No costs.

Typed to my dictation by Stenographer G-I directly on the computer and after corrections, pronounced by me in open Court, on this the 31st day of July, 2026.

Principal Senior Civil Judge,
M.M. District at Kushaiguda.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR THE PETITIONER

-None-

FOR THE RESPONDENTS

-None-

EXHIBITS MARKED

FOR THE PETITIONER:

-Nil-

FOR THE RESPONDENTS:

-Nil-

Principal Senior Civil Judge,
M.M. District at Kushaiguda.