

IN THE COURT OF THE MUNSIFF'S, PUNALUR  
PRESENT :- Smt. Reshma R.S, Civil Judge (Junior Division)  
Wednesday the 20<sup>th</sup> day of August, 2025/29<sup>th</sup> day of Sravana, 1947.

**IA 05/2024 in OS 179/2021**

**Between**

**Petitioner** : Nakulan, aged 62 years, S/o Vasu, Vishnu Bhavan,  
Panthaplavu Muri, Pattazhy Village,  
Pathanapuram Taluk.  
**(By Adv. Lizy K. Jacob)**

**And**

**Respondents** : 1. Sudharmma @ Mani, Charuvila Veedu,  
Panthaplavu, Pattazhy Village,  
Pathanapuram Taluk.  
2. Hariraj, Charuvila Veedu,  
Panthaplavu, Pattazhy Village,  
Pathanapuram Taluk.

This petition is coming on for final hearing before me on 08-08-2025 and stood over for consideration to 20-08-2025 and on the same day the Court passed the following.

**ORDER**

Application filed under section 151 of the Code of Civil Procedure, 1908.

2. **The application averments, in brief, are as follows:** The applicant is the plaintiff in the suit. The suit was filed for a fixation of the boundary and consequential reliefs. The respondents are ex-parte in the suit. In this case, the survey commission application was allowed, and the Advocate Commissioner filed a detailed mahazar, report and survey plan before the court. Plaint A and B schedule properties belongs to the applicant. The

right to use the plaint C schedule pathway has been specifically provided in the Sale Deed No. 141/2007. Thereafter, the plaintiff purchased plaint B schedule property. But in the survey plan, the Advocate Commissioner has portrayed the plaint A and B schedule properties as a single compact plot. The pathway included in the re-survey plan is also omitted. The B schedule property ought to have been surveyed, excluding the pathway. But the Commissioner has not properly surveyed the property. The Commissioner has not shown the pathway mentioned in the sale deed No. 141/2007. Apart from that, the C schedule pathway was mentioned as the property of the defendant. The Advocate Commissioner may be given a direction to correct these mistakes, and the commission report may be remitted back to the same Advocate Commissioner. Otherwise, that would cause irreparable injury and hardships to the applicant.

3. The respondents are ex-parte.
4. The commission report was marked as Ext. C1 series.
5. Heard.
6. The sole point to be considered is whether this application can be allowed?
7. **The Point:-** The learned counsel for the applicant argued that the application is to be allowed in the interest of justice. According to the

applicant, the report of the advocate commissioner is liable to be remitted back, as there are various mistakes in it. According to the applicant, the Advocate Commissioner has not surveyed and portrayed the plaint C schedule pathway in the survey plan submitted before the court. Hence, prayed for remitting back the CR.

8. Here, the suit is filed seeking the relief of fixation of boundary and other consequential injunction. Hence, a proper survey commission report is essential to have a proper adjudication of the dispute. A perusal of the commission report makes it clear that there are patent errors in the commission report. The plaint C schedule pathway is not surveyed, identified, and located in the survey plan. The extent and the exact measurements of the plaint C schedule pathway are not evident from the Exhibit C1 series. It is a patent error. Hence, this Court is of the view that the commission report is liable to be remitted back to the same Advocate Commissioner and surveyor.

**In the result:** This application is allowed. The commission report is remitted back. The Advocate Commissioner is directed to identify and locate the plaint A, B and C schedule properties in a proper manner. The advocate commissioner is directed to execute the work expeditiously and properly, and to file the report forthwith. There shall be no order as to costs.

Pronounced in open court on this, the 20<sup>th</sup> day of August 2025.

Sd/-  
Civil Judge (Junior Division)

**Appendix:**

**Court Exhibits**

C1	09-01-2024	Commission Report prepared by Advocate Commissioner K. Rajan.
C1(a)	30-12-2023	Mahazar prepared by Advocate Commissioner K. Rajan.
C1(b)	30-12-2023	Survey Plan prepared by N. Sreelatha, Surveyor (Retired), Survey and Land Records.

Id/-  
Civil Judge (Junior Division)

//True Copy//

Typed by : Reeja Jasmine M.V  
Compared by :

**CIVIL JUDGE (Junior Division)**