

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : Tmt.M.Santhosham., B.Sc., B.L.,

District Munsif, Sulur

Thiruvalluvar year 2056 Visvavasu year, 10th day of Panguni

Tuesday the 24th day of March 2026

I.A. No.3/2025

in

O.S. No.79/2025

P. Bagiyam

... Petitioner/ Plaintiff

//Vs//

1. Village Administrative Officer,
Kalangal, Sulur Taluk (Circle),
Sulur, Coimbatore District.

2. Revenue Tahsildar, Sulur Taluk (Circle)
Sulur, Coimbatore District.

3. Sub – Registrar, Sulur Registrar Office,
Sulur, Coimbatore District.

4. Taluk Surveyor, Sulur Taluk Office
Sulur, Coimbatore District.

... Respondents / Defendants

This petition coming for final hearing before me in the presence of Mr.V.K.Murthy, Advocate for the Petitioner and Additional Government Pleader for Mr.S.Mahendran, Advocate for the Respondents and upon perusing the records, this court made the following:

ORDER

This petition filed by the Petitioner under Order 26 rule 9 and section 151 of CPC to appoint an Advocate Commissioner to visit the petition mentioned property along with the assistant Taluk Surveyor to visit the petition mentioned property and note down the physical features with photos of the petition mentioned property and file the report before this court.

1. The brief averments of the affidavit filed by the Petitioner as follows:

1.1. The schedule of the suit property is in S.F.No.63/3D1A and 63/3E1 at Kalangal Kiramam, Tiruppur District which are within the jurisdiction of this court. The petitioner is the absolute owner of the land bearing S.F.Nos.63/3D1A and 63/3E1. Rame gounder is the absolute owner of the land bearing S.F.Nos.63/3D1A and 63/3E1. A rough sketch is attached at the end, depicts the lief of the suit schedule property. Petitioner recently came to know the connected petition mentioned property was given to 8 persons and all of them sold the property to Nachitra Garden and hence patta has not been given to petitioner for the property. But there was no need or necessity to given patta to 8 persons as alleged orders never came into force or effect at any point of time and never intended to put in force. The orders are noting but illegal, inoperative and in executable. It is null and void and inoperative.

1.2. Petitioner have come forward with the suit for permanent injunction against the respondents/defendants, directing the defendants to deliver possession of the suit property, doc.No.3679/1989 registered before Sub Registrar Office, Sular, Tiruppur and the property is situated at Kalangal Kiramam Tiruppur by granting permanent injunction. It is just and necessary to appoint an advocate commissioner to visit the suit property along with the assistant taluk surveyor to visit the schedule mentioned property and note down the physical futures with photos of the petition mentioned property and file the report before this court to adjudicate the matter effectively. Hence, the petition is to be allowed.

2. The brief averments of the counter filed by the 2nd Respondent and adopted by the 1st, 3rd and 4th Respondents as follows:

2.1. The application seeking appointment of advocate commissioner is false, frivolous, vexatious and unsustainable in law and on facts. Except the allegations which are specifically admitted herein, this respondent denies the rest of the allegations in the affidavit and the petitioner is put to strict proof of the same. The petitioner does not have any right, title or interest whatsoever over the suit property. The petitioner herself admits the plaint that the petition mentioned properties were already declared as surplus land under Tamilnadu Land Reforms (Disposal of Surplus Land) Rules, 1965 and allotted to 8 different persons. Subsequently the same was sold to one Nachatra Garden by the allottees. But the petitioner failed to add the allottees and the subsequent purchaser as necessary parties to the proceedings.

2.2. The petitioner has filed the present suit seeking delivery of possession and permanent injunction without adding the present owner as a necessary party to the proceedings. The petitioner filed the case with an ill motive to earn illegal gain. Further the petition and affidavit is very silent about the purpose of seeking appointment of commissioner. The allegations in affidavit do not make out a case for appointment of commissioner. Hence, the petition is to be dismissed.

3. No Witnesses were examined on either side, and no documents were marked as exhibits.

4. Points for consideration:

Whether the petition under O 26 R 9 and Section 151 of CPC to appoint an Advocate Commissioner is to be allowed?

5. Points :

5.1. The Petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. Case records are perused. The Main suit is filed for delivery of possession of the suit property by granting permanent injunction against the defendants. Now this suit is pending for framing of issues.

5.2. The petitioners stated that, Petitioner recently came to know the connected petition mentioned property was given to 8 persons and all of them sold the property to Nachitra Garden and hence patta has not been given to petitioner for the property. But there was no need or necessity to given patta to 8 persons as alleged orders never came into force or effect at any point of time and never intended to put in force. The orders are noting but illegal, inoperative and in executable.

5.3. The respondents are objected, the petitioner has filed the present suit seeking delivery of possession and permanent injunction without adding the present owner as a necessary party to the proceedings. The petitioner filed the case with an ill motive to earn illegal gain. Further the petition and affidavit is very silent about the purpose of seeking appointment of commissioner.

5.4. On perusal of record, the main suit is filed for delivery of possession of the suit property document No.3679/1989 registered before Sub Registrar Office, Sular, Tiruppur and the property is situated at Kalangal Kiramam Tiruppur by granting permanent injunction. The main suit prayer is delivery of possession of the suit property. Hence, there is no possible to appointment of commissioner to visit the petition mentioned property along with the assistant Taluk Surveyor to note down the physical features with photos of the petition mentioned property. It is settled law that an Advocate Commissioner cannot be appointed to gather evidence or to fill up lacunae in a party's case after closure of evidence.

Hence, the petition filed by plaintiff is only to drag the proceedings. However, considering the nature of the case this Court, in the interest of justice and to avoid the multiplicity of the proceedings the present petition is dismissed.

In the result, this petition is dismissed. No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 24th day of March 2026.

Sd/M.Santhosham
District Munsif,
Sulur.

List of witnesses and document on Petitioner side: - Nil

List of witnesses and documents on Respondents side:- - Nil

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
I.A.No.3/2025 in
O.S.No.79/2025
Dated : 24.03.2026
DMC, Sulur.