

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Thiruvalluvar year 2056 Visvavasu year, 25th day of Masi

Monday the 9th day of March 2026

I.A.No.6/2025

in

O.S.No.132/2023

G. Thangaraj

... Petitioner/Defendant

/VS/

1. N. Vijayakumari

2. Narayanasamy

3. N.Venkadesh

...Respondents/Plaintiffs

This petition is coming on this day for final hearing before me in the presence of Mr.B.Jothikumar, Advocate for the Petitioner and Mrd.J.Dhivya, Advocate for the Respondents and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioner u/s 151 of CPC to Scrap the Advocate Commissioner Report.

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

1.1. This Court appointed Advocate Commissioner in I.A No.3/2023 have arrived to S.F.No.364/1 & 2 in Irugur Village on 23rd September 2024, at around 3:30 p.m., accompanied by the Taluk Surveyor. At the same spot, petitioner and his counsel, plaintiffs and the plaintiffs' counsel were also present. Petitioner counsel has instructed orally to measure the Schedule mentioned properties A and B, also from the boundary stone to the respectful Commissioner. But the Plaintiff's Counsel had

argued to measure from the road of 20 feet which is on the eastern side of the suit property where there was no boundary stone and the Commissioner had also accepted the claim of Plaintiff's Counsel.

1.2. The Commissioner had instructed the Surveyor to measure from the 20 feet eastern side road of the suit property. Though the surveyor already has measured multiple times from the time of controversy and aware of the irregular measurements, they have also acted arbitrarily at that time. During the measurement from the 20 feet eastern side road of the suit property, petitioner and his Counsel have objected the Commissioner and the Surveyor to measure from the boundary stone as the 20 feet road they started to measure was said to be an arbitrary measurement without the boundary stone. But there was no response from the Court appointed Commissioner where is he agreed with the plaintiff's counsel who argued that their measurement was right.

1.3. During the measurement, 1st and 3rd plaintiffs were interrupting the surveyor by holding the measuring tapes in hand and the Commissioner was remained silent though petitioner counsel requested for their non-intervention to the Commissioner. The Commissioner's statement on encroachment was soon after measuring the compound wall which is in Site No.10. The same Surveyor had measured multiple times the suit property and confirmed the plaintiffs' encroachment of nearly 2 feet to petitioner property but did not give to petitioner any records as a document, even though petitioner asked for a digital land record or other documents available. This eventually became a due advantage to the plaintiffs and therefore the suit arose in this Court.

1.4. The petitioner have bought the western side property, the concrete house along with the 80 feet compound wall built in Site No.10 of S.F.No.364/1 in the Irugur Village on 14.7.2008 as per the sale deed dated 14.7.2008 from the original

owner only after the plaintiffs' Site. No.10 eastern side property, which was owned during 2004. The Commissioner was not aware of the fact that the Compound wall of 80 feet in Site.No.10 was constructed by the original owner before 2008. Therefore, petitioner bought the property along with the Compound wall which was already built by the original owner. Also, petitioner have constructed the wall roof along with the extension of about 1/2 feet to ensure the plaintiffs' 2 feet encroachment towards petitioner property.

1.5. This court appointed Advocate Commissioner who arrived on 23.09.2024 was found arbitrary by not knowing the facts of the case, as Site No.10 property in S.F.No.364/1 in the Irugur village was bifurcated by the original owners and to ensure any encroachment the Site No.10 property should be measured as the whole from the boundary stone to ensure the accuracy along with the digital land survey records. Also, the respectful Commissioner did not record the event with any audio or video or took any photographs or measure from the boundary stone. Hence, to scrap the Advocate Commissioner Report on Record which is without (i) digital measurement, (ii) proper land records and (iii) details of measuring from the boundary stones to note down the Schedule mentioned property.

1.6. In the above stated circumstances of the case, it becomes just and necessary to scrap the Advocate Commissioner Report on Record. Hence, the petition is to be allowed.

2. The brief averments of Counter statement filed by the 3rd Respondent and adopted by the 1st and 2nd Respondents as follows:

2.1. The allegations in the affidavit filed in support of the petitioner are all false and incorrect. The petitioner is not entitled to the relief prayed for or to any other relief. The respondents/plaintiffs have filed the above suit for Mandatory injunction. The petitioner/defendant filed counter and argued in I.A.No.3/2024 which

is filed by the respondents/plaintiffs with lot of authorities not to the measure the suit property. Finally that this Court ordered in I.A.No.3/2024 appointed the advocate commissioner to measure the property with Taluk Surveyor. In the petitioner affidavit stated that property measured in 3.30 p.m. the both counsel's parties, surveyor, advocate commissioner all were mutually fixed the time and date and went.

2.2. The petitioner/defend argued with advocate commissioner and Taluk Surveyor while measuring the property. The petitioner/defendant took respondents/plaintiffs road east side west side as his wish for search of boundary stone. The Taluk Surveyor conveys him that the suit property and the defendant property all were layout of house site. As per Taluk S.F. Plan book surveyor measured with lot of disturbance from the petitioner/defendant. The petitioner/defendant doing lot of troubles to the respondents/plaintiffs. The 1st and 2nd respondents are senior citizens made them sit in police station using his wealth power and influence in his community, teasing them in road. The petitioner/defendant doing worst behavior against the respondents/plaintiffs.

2.3. As per the order in I.A.No.3/24 the Taluk Surveyor measured site No.10 in S.F.No.346/1. As per the advocate commissioner's report and surveyor plan it was revealed the petitioner/defendant encroached that the respondents/plaintiffs suit property 0.6 meter on the southern side. The Petitioner/defendant could not able to change anything. Since the petitioner decided to file this application, petitioner can use his men power, wealth to change anything. The above application filed to scrap the advocate commissioner petition and appointment of advocate commissioner to measure the property of the suit properties itself clearly seen that the irrelevant and not necessary to decide fact in the issue of the suit. 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 u/s 151 of CPC to Scrap the Advocate Commissioner Report 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. The suit documents were carefully examined. The Main suit is filed for Mandatory Injunction and Permanent Injunction and now the original suit is pending for trial.

5.2. The petitioner stated that, this court appointed Advocate Commissioner who arrived on 23.09.2024 was found arbitrary by not knowing the facts of the case, as Site No.10 property in S.F.No.364/1 in the Irugur village was bifurcated by the original owners and to ensure any encroachment the Site No.10 property should be measured as the whole from the boundary stone to ensure the accuracy along with the digital land survey records. Also, the respectful Commissioner did not record the event with any audio or video or took any photographs or measure from the boundary stone. Hence, to scrap the Advocate Commissioner Report on Record which is without (i) digital measurement, (ii) proper land records and (iii) details of measuring from the boundary stones to note down the Schedule mentioned property.

5.3. The respondents objected that, as per the order in I.A.No.3/24 the Taluk Surveyor measured site No.10 in S.F.No.346/1. As per the advocate commissioner's report and surveyor plan it was revealed the petitioner/defendant encroached that the respondents/plaintiffs suit property 0.6 meter on the southern

side. The Petitioner/defendant could not able to change anything. Since the petitioner decided to file this application.

5.4. On perusal of record, in this suit, Commissioner was measured the petition mentioned property along with the help of the Surveyor and filed his report and plan. Petitioner also admitted that, the same Surveyor has measured multiple times of the suit property and confirmed the plaintiff's encroachment of already 2 feet to petitioner property. The petitioner has right to cross examined the Commissioner regarding only measurement. Therefore, this court considered that, the Surveyor has measure the property properly. There is no sufficient reasons to allow this petition. Hence, in the interest of justice this 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 9th day of March 2026.

Sd/M.Santhosham
District Munsif,
Sulur.

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

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

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
 I.A.No.6/2025 in
 O.S.No.132/2023
 Dated:09.03.2026
 DMC, Sulur