

**THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,  
ANNUR.**

PRESENT: Tmt.V.Monika, B.A., B.L., L.L.M.,  
District Munsif cum Judicial Magistrate, Annur.

**On this Wednesday, the 19<sup>th</sup> day of November 2025.**

**I.A.No. 3/2025**  
**in**  
**O.S.No. 106/2025**  
**(CNR.No.TNCB210018602025)**

Keerthana Ravichandran

.... Petitioner/Plaintiff

//Versus//

Venketesan

.... Respondent/Defendant

This petition is coming on today for final hearing before this court in the presence of Thiru.S.Kakka Muthu, Learned Counsel for the Petitioner/Plaintiff and Thiru.S.Anandh, Learned Counsel for Respondent/Defendant, upon perusal of material records and having stood over for consideration till this date, this court passed the following:

**ORDER**

This petition has been filed by the Petitioner/Plaintiff under Order 26 Rule 9 of CPC to appoint an advocate commissioner with direction to visit the property for noting down the boundaries of the setback spaces of the suit property, physical features, to take photographs and to note down the setback spaces of the

encroachment made by the defendant by laying the pillar on the East-West on the Northern side compound wall of the property with the help of qualified Surveyor and to file a report and thus render justice.

**2. Brief averments in the Affidavit:**

a. The Petitioner/Plaintiff is the absolute and lawful title holder of the petition mentioned property by virtue of a registered sale deed in Doc. No.5068/2021, dated 04.08.2021. She availed a housing loan for a sum of Rs.58,14,000/- and after obtaining approval, constructed the house in August 2022. The petition mentioned property measuring an extent of 1500 square feet or 3.5 cents, in which total construction of the building with measuring an extent of 1017.38 square feet. Northern side of the petition property is belonged to the respondent, he purchased the property and started the construction activities for domestic purpose. The respondent failed to allocate the setback space, as per the plan approval by the DTCP which is clear violation of the Tamil Nadu Combined Development and Building Rules Act, 2019. The petitioner/plaintiff left 2.6 feet of land area as setback space on the Northern and 3.6 feet rear side of the suit property but the respondent on the other hand has constructing by installing pillar to his entire portion of land without leaving setback spaces and also encroached the setback spaces of the portion of the petitioner. The petitioner approached the respondent and made it clear that not even an inch of the setback spaces left by the petitioner should be encroached for laying pillar but he encroached the 2 feet setback space of the petition property. The East-West on the

Northern side of the compound wall lying on the East-West 30 feet road to the East-West on the Northern side of the respondent's property. The respondent started construction in his land on the East-West on the Northern side compound wall by laying the pillar and failed to allocate space for setback of the property and encroached 2 feet setback of the suit property. Easement rights enjoyed by the petitioner is disturbed by the respondent. The deliberate and willful encroachment of the respondent by laying the pillar on the East-West on the Northern side compound wall of the petitioner was not only affected the encroachment of the premises of the property and also hide the easement rights for the usage of right of Ventilation, Air, Light, Fire, Safety Hazard, Structural damages and maintenance issues.

**b.** On 09.09.2025, when the Petitioner questioned the Respondent about the said encroachment, he behaved in a high-handed and unlawful manner despite the Plaintiff's objections. The Petitioner lodged a written complaint before the Special Officer on 10.09.2025 and another complaint before the Assistant Director, District Town and Country Planning Office, Coimbatore, on 11.09.2025. However, no action was taken by the said authorities. On 12.09.2025, when the Petitioner again confronted the Respondent, he and his associates attempted to assault and threatened the Petitioner, stating that they would cause harm if the issue was raised further. The Petitioner then approached the jurisdictional police, but the officials refused to register the complaint and advised the Petitioner to approach the civil court for relief. Since the Respondent has unlawfully encroached upon a portion of the Petitioner's

property and violated the statutory building regulations, the Petitioner has no other alternative but to approach this Hon'ble Court seeking a decree of permanent injunction restraining the Respondent/Defendant, his men, agents, or representatives from continuing the illegal construction or further encroachment on the Petitioner's property. The petitioner is having prima facie case, balance of convenience is also in the favour and if temporary injunction is not granted, she will suffer irreparable loss or hardship. Hence, it is prayed by the petitioner to grant a temporary injunction till the disposal of the suit against the respondent to not to lay pillar to the East-West on the Northern side of compound wall of the petitioner. The Petitioner prays for the appointment of an Advocate Commissioner to inspect the petition property with the assistance of a qualified surveyor, to note, measure, and identify the setback spaces, to record and document the extent of encroachment, to take photographs, and to submit a detailed report before the Court. Therefore, the petitioner prays to appoint an Advocate Commissioner with appropriate directions to visit the petition mentioned property for noting down the boundaries of the setback spaces of the suit property, physical features, to take photographs and to note down the set back spaces of the encroachment made by the defendant by laying the pillar on the east-west on the Northern side compound wall of the petition mentioned property with the help of qualified surveyor to file report before this court and render justice.

### **3. Brief averments in the Counter statement filed by the Respondent:**

By denying entire petition averments, except those are specifically admitted the counter filed by the respondent is as follows. The ownership of petitioner towards the petition property and her construction of house before the respondent purchased his property is admitted. The respondent had not violated any terms and conditions as specified by rules of the Tamilnadu Development and Building Rules Act, 2019. This petition is an attempt of the petitioner to obstruct the construction by respondent for obtaining unlawful gains. The petitioner has to prove the encroachment of 2 feet into petition mentioned property while she separated her property by compound wall. The allegation that the respondent installing pillars without leaving setback space and encroached upon 2 feet of the petitioner's setback space is baseless. Further, if there is encroachment, the petitioner failed to claim any relief of removal of encroachment. It is false to state that the respondent had blocked the right of ventilation, air, light, fire safety hazard and caused structural damages and maintenance issues. The petitioner completed her construction earlier than the respondent with separate compound wall and so the allegation that the respondent/defendant blocked her easement right is improbable. The petitioner never questioned the respondent as pleaded by her and the averments of her complaint before special officer and assistant director of DTCP were baseless and untenable. Hence, the respondent prays to dismiss this inappropriate petition otherwise the respondent would into much loss and hardship.

4. Neither parties examined any witnesses nor marked any documents.

**5. Points for Consideration:**

Whether this petition under Order 26 Rule 9 of CPC should be allowed and the petitioner is entitled to the relief of appointment of advocate commissioner along with the help of Taluk Surveyor as prayed for?

**Discussion and Decision:-**

6. The averments placed by both side counsels were heard and the available records perused. The petitioner counsel had stated that the petitioner is the owner of the suit property, which was purchased and she had built the house super structure in the year 2021 by following RERA rules, providing 2.6 feet setback space and there after laid a compound wall in her premises. It is submitted by the petitioner/plaintiff that the respondent/defendant had purchased the adjacent site land, situated on the Northern side of the petitioner's property. It is contended by the petitioner that the respondent has laid the pillar on the East-West direction on the Northern side of the petitioner's compound wall, encroached the two feet setback space belonging to the petitioner and the respondent had intentionally and deliberately laying the pillar without getting any proper approval, because of which the petitioner is deprived of her easement right of ventilation, light, fire, safety hazard. It is also further contended by the petitioner that because of the pillar laid by the respondent in East-West direction on the Northern side of the compound wall of the petitioner house, the

Northern compound wall of the petitioner's house was heavily eroded at eight places. So the petitioner prays before this court to appoint a commissioner to visit the petition mentioned property in order to note down the boundaries and setback spaces of suit property, noted down the physical features, taking photographs made by the defendant on the Northern side of compound wall in relation to the setback spaces with the help of qualified surveyor and to file before the Hon'ble Court.

7. On the other hand, the respondent prays to adopt the counter filed in IA No.2/2025 as counter in this IA No.3/2025. It has been contended in the counter of the respondent that all the allegations of the petitioner levelled against the respondent in para number 2 to 7 of the petition are specifically denied. The case of the respondent submitted by him that he had obtained loan for construction of building in the land by him in Site No.121, the petitioner had completed construction of her house building, the respondent not violated any terms and conditions of the Tamil Nadu combined development and Building Rules Act of 2019. When the petitioner claimed that the respondent had encroached 2 feet of the petition mentioned property, she failed to take necessary steps for measuring the petition mentioned property regarding the alleged encroachment. The respondent had contended further that he started construction as per rules by allocating sufficient space as setback, no relief was claimed by the petitioner for removal of encroachment of 2 feet when it is alleged that the respondent had encroached 2 feet of the petition mentioned property and so it is prayed by the respondent that the petition has to dismiss with cost.

**8.** The rival contentions of both side counsels were considered. It is the allegation of the petitioner that even though she left setback space within her site land, the respondent by violating the rules, not provided setback space and started to construct the building on the Northern site number 121 of the petition mentioned property, because of which the petitioner is deprived of her easement right of air, light, fire, safety hazards and ventilation. On the other hand, it is claimed by the respondent that he had started construction after obtaining necessary approval for the building started to construct in the site number 121, lies on the Northern side of the suit property and so prayed to dismiss the petition since there is no need of necessity for this petition.

**9.** There is no allegation regarding to ownership in this matter but the problem lies with the thing that whether the respondent had encroached 2 feet of petition mentioned property, which was left as setback space as per rules under which the building was constructed in the petition mentioned property. This suit was filed by the petitioner / plaintiff for the relief of bare injunction against the respondent with respect to the suit property by doing construction of laying pillar on the Northern side of the compound wall of the petitioner's house property.

**10.** There is a doubt created to this court with respect to the allegations leveled in the petition that the respondent encroached 2 feet. Because during enquiry the petitioner counsel submitted that she had put up construction to the entire property along with raising a compound wall on all four boundaries. The photographs

submitted along with the plaint reflects that the set back space left by the petitioner is situated between the house and the compound wall and this speculation was supported by the building plan approval. When this court specifically questioned the petitioner counsel about how many feet were left beyond the compound wall of the petitioner's house, there was no reasonable explanation offered by the petitioner counsel with respect to available set back space beyond the compound wall and the extent of alleged encroachment in it. The petitioner has also moved before this court this with an interim application for the relief of interim injunction till the disposal of the suit with respect to the suit, with respect to construction of the pillar as claimed in the main suit. According to this scenario and the facts and circumstances prevailing in the case on hand, there existed a necessity for conduct of survey in order to determine the alleged encroachment of setback space by the respondent. Further this court is also of the considered view that the report of an advocate commissioner is necessary, it might aid the court to decide the main suit as well as the interim application for injunction till the disposal of the suit. Hence this court is hereby allows the petition and appoint advocate Mr.Vijayan as the advocate commissioner and he is directed to visit the suit property as soon as possible along with the aid of qualified surveyor, survey the suit property as well as the construction of pillar made in the property belonged to the respondent, which lies on the Northern side of suit property, to note down the encroachment made if any and to note down the setback spaces left by both side parties. The advocate commissioner is directed to file a detailed report accordingly and the commissioner fee is fixed as Rs.15,000/-, which has to be paid

directly by the petitioner to the advocate commissioner. The advocate commissioner is directed to take the photographs and the expenses of photographs paid by the petitioner separately to the advocate commissioner. Advocate-commissioner report and plan call on 02.12.2025.

Dictated to the steno-typist, directly typed by her in the official desktop, corrected and pronounced by me in the open court on this 19<sup>th</sup> day of November, 2025.

sd/- V.Monika  
District Munsif cum Judicial Magistrate,  
Annur.

**Both side Exhibits marked: - NIL -**

sd/- V.Monika  
District Munsif cum Judicial Magistrate,  
Annur.

**Draft/Fair Order**

I.A. No. 3/2025 in

O.S. No. 106/2025.

Dated : 19.11.2025.

DM cum JM, Annur.

**THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,  
ANNUR.**

PRESENT: Tmt.V.Monika, B.A., B.L., L.L.M.,  
District Munsif cum Judicial Magistrate, Annur.

**On this Wednesday, the 19<sup>th</sup> day of November 2025.**

**I.A.No. 3/2025**  
**in**  
**O.S.No. 106/2025**  
**(CNR.No.TNCB210018602025)**

Keerthana Ravichandran(33) W/o. Karthick,  
D.No.120, 5<sup>th</sup> cross street, VIP Grand Meridian,  
Andakkapalayam, Vellnaipatti Post, Coimbatore – 64 042. .... Petitioner/Plaintiff  
//Versus//

Venketesan (55) S/o. Narayanasamy,  
D.No.159, 2<sup>nd</sup> Cross Street, Tatabad,  
Gandhipuram, Coimbatore – 641 012. .... Respondent/Defendant

This petition has been filed by the Petitioner/Plaintiff under Order 26 Rule 9 of CPC to appoint an advocate commissioner with direction to visit the property for noting down the boundaries of the setback spaces of the suit property, physical features, to take photographs and to note down the setback spaces of the encroachment made by the defendant by laying the pillar on the East-West on the Northern side compound wall of the property with the help of qualified Surveyor and to file a report and thus render justice.

**Date of petition : 22.09.2025.**

This petition is coming on today for final hearing before this court in the presence of Thiru.S.Kakka Muthu, Learned Counsel for the Petitioner/Plaintiff and

Thiru.S.Anandh, Learned Counsel for Respondent/Defendant, upon perusal of material records and having stood over for consideration till this date and this court doth order and final order as follows:

Mr.Vijayan (Ms No.2641/2018) is hereby appointed as Advocate Commissioner, whose remuneration has been fixed as a sum of Rs.15,000/- and it has to be paid to Advocate/Commissioner directly by the petitioner. The advocate commissioner is directed to take the photographs and the expenses of photographs paid by the petitioner separately to the advocate commissioner. Advocate-commissioner report and plan call on 02.12.2025.

### **Memo of Cost**

- Both side cost list not filed -

### **Description of Property**

கோயமுத்தூர் பதிவு மாவட்டம், கணபதி சார்பதிவக உபமாவட்டம், அன்னூர் வட்டம், வெள்ளாணைப்பட்டி கிராமம், புல எண்கள் 194/4, 5, 6, 7, 8, 195/1A1, IBI, IC, 196/1A, IB, IC, ID, IE, 197/2, 3, 4 மற்றும் 197/5B ஆகியவற்றில் இடம்பெற்றுள்ள மொத்தப்பரப்பு ஏக்கர் 10.28 பரப்பளவில் இடம்பெற்றுள்ள ம.வ/ந.ஊ.இ.எண் 08/2020 நாள் 14.7.2020-ன்படி தொழில்நுட்ப அனுமதி வழங்கப்பெற்றுள்ளதும், கோயமுத்தூர் உள்ளூர் திட்டக் குழும உறுப்பினர் செயலரால் தி.அ.எண்.187/2020 நாள் 03.11.2020-ன்படி திட்ட அனுமதி வழங்கப் பெற்றுள்ளதும், "VIP GRAND MERIDIAN" என்ற பெயரில் அமைந்திருப்பதுமான மனைப்பிரிவில், புல எண்கள் 196/1B. 196/IC. 196/1D, 197/3, 4 ஆகியவற்றில் இடம்பெற்ற மனை எண்.120-க்கு நான்குமால் விபரம்,

கிழக்கு - 30 அடி அகல தென்வடல் ரோடு  
மேற்கு - மனை எண் 125  
வடக்கு - மனை எண் 121  
தெற்கு - மனை எண் 119

இதற்குள் கிழமேலில் இருபுறமும் அடி 50, தென்வடலில் இருபுறமும் அடி 30க்கு சதுரடி 1500க்கு 139.35 சதுரமீட்டர் உள்ள காலிமனையும், மேற்படி லேயவுட் ரோடுகள் மற்றும் பொது உபயோக இடங்களில் பொது பாத்தியமும் மூல ஆவணங்களில் இடம்பெற்றுள்ள பாதை பாத்தியம் உள்ளிட்ட அனைத்து பாத்தியங்களும் சேர்ந்து.

Given under my hand and the seal of this court, this the 19<sup>th</sup> day of November, 2025.

sd/- V.Monika  
District Munsif cum Judicial Magistrate,  
Annur.

**Final Order in :**  
I.A. No. 3/2025 in  
O.S. No. 106/2025.  
Dated : 19.11.2025.  
DM cum JM, Annur.