

IN THE COURT OF THE ADDITIONAL DISTRICT MUNSIF, TITTAGUDI

**Present: Selvi.N.Shalini, B.Com.LL.B.(Hons.)**

Additional District Munsif, Tittagudi

On Wednesday, the 03<sup>rd</sup> day of June 2026

**IA.No.164/2026 in O.S.No.248/2006**

1. Arumugam Servai (Died) Rep. by D2 to D4,

2. Duraisamy Servai (Died) Rep. by D5 to D9,

3. Vellaiyan,

4. Selvarasu,

5. Paunambal,

6. Selvi,

7. Saranya,

8. Vikki @ Vigneshwaran,

9. Purushothaman.

... Petitioners / Defendants

/Vs/

Rajamanikam.

... Respondent / Plaintiff

This petition was filed on 11.03.2026 and coming before me for final disposal on 22.04.2026 in the presence of Mr.Kodi.Ramasetu, Counsel for Petitioners; Mr.G.Senthilsaravanan, Counsel for Respondent. Upon hearing the arguments of both sides and upon perusing the materials on record, this court doth hereby pronounce the following;

### **ORDER**

1. This petition in I.A.No.164/2026 has been filed under Section 151 CPC to re-issue the warrant to the same Advocate commissioner to re-visit the petition property, measure with the assistance of a Surveyor and VAO based on the documents and file a detailed report along with plan.

## **2. BRIEF AVERMENTS OF THE PETITION:**

2.1. The petitioner herein is the 6th Defendant in the suit and that the Petitioners have sought to re-issue the warrant to the Advocate Commissioner to revisit the petition property.

2.2. The Commissioner in the sketch has mentioned that the measurement of the suit property was 24 feet on the east-west, 72 feet on the north to south. The Commissioner was appointed for the second time and the measurement was done again on 14.09.2025. During the survey, when the Petitioner requested them to survey the property using the registered deeds dated 06.03.1974 and 19.07.1961, the surveyor refused, saying that only if there is a court order, he can measure using the documents. The Petitioners have also filed their memo of objections to the Commissioner's report. Only if such measurements are taken based on documents, the truth will be known. Hence, the present petition.

## **3. BRIEF AVERMENTS OF THE COUNTER:**

3.1. The Respondent denies the entire averments contained in the affidavit of the petitioner and the petition is liable to be dismissed with costs.

3.2. These petitioners have deliberately planned and filed this petition with the intention of delaying the case now and therefore this petition should be dismissed. Furthermore, the petitioners have obtained their sale deed by showing more extent than what has been mentioned in their parent documents. Furthermore, if this court allows this petition, the property of the petitioners should be measured in accordance with deeds of Thangavel Udayar and others.

3.3. Since the petitioners are not having a good case, they have belatedly filed this petition to drag the proceedings. Hence, this petition is liable to be dismissed with costs.

## **4. POINT FOR CONSIDERATION:**

Whether this petition shall be allowed or not?

Heard both sides and perused all the materials on record.

## **5. DISCUSSION AND REASONING:**

5.1. On perusal of records, it is found that already the suit was remanded by the appellate court with a specific direction that the suit property shall be re-surveyed by the Advocate Commissioner with the assistance of a surveyor and VAO and based on documents.

5.2. However, at the time of the survey, the petitioner had not given any memo of instructions to the Advocate Commissioner to measure the property on the basis of documents. After completion of the survey, but before filing of the report by the Advocate Commissioner, the petitioner herein has filed a memo before this court on 17.11.2025 stating that the property ought to be surveyed based on registered Doc.No.374/1974. But the survey already took place on 14.09.2025 and the report was filed by the Advocate Commissioner on 19.11.2025.

5.3. Nevertheless, the omission on the part of the petitioner to furnish specific instructions at the time of survey cannot, by itself, defeat the very object of the remand order passed by the Appellate Court. When the appellate court had specifically directed that the property be surveyed on the basis of the relevant documents, the duty to conduct the survey with reference to the material title deeds assumes significance irrespective of whether a separate memo of instructions was filed by either party. The records further disclose that the petitioner had specifically brought to the notice of the Court, before the filing of the Commissioner's report, that the measurement ought to be undertaken with reference to Registered Document No.374 of 1974, which according to him constitutes an important title document relating to the suit property.

5.4. Since the identity, extent and boundaries of the suit property form the core issue involved in the suit, and as the remand order itself contemplated a survey based on documentary evidence, this Court is of the view that a comprehensive re-survey with reference to the relevant title deeds, including Registered Document No.374 of

1974, would better serve the ends of justice. No prejudice would be caused to either party if the property is re-measured in the presence of all concerned parties and officials. It will only assist the Court in arriving at a correct and effective adjudication of the dispute and avoiding multiplicity of proceedings.

**In the result, this petition is allowed. No costs. Advocate Mr.M.Kamarasu is re-appointed as the Advocate Commissioner to re-visit the petition property, measure with the assistance of Surveyor, VAO and on the basis of registered documents and file a detailed additional report along with plan. The remuneration is fixed at Rs.8000/- to be paid on or before 10.06.2026, failing which this petition shall stand automatically dismissed.**

For compliance call on 10.06.2026.

Directly typed by me in my laptop, formatted by Typist, corrected and pronounced by me in the open court, on this the 03<sup>rd</sup> day of June 2026.

Additional District Munsif,  
Tittagudi.

Fair Order  
IA.164/2026 in  
O.S.No.248/2006  
Date: 03.06.2026