

IN THE COURT OF THE ADDITIONAL DISTRICT MUNSIF, TITTAGUDI

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

Additional District Munsif, Tittagudi

On Thursday, the 02nd day of July 2026

IA.No.93/2024 in O.S.No.10/2015

Krishnasamy

... Petitioner / Plaintiff

/Vs/

1. Rajagopal (Died),
2. The District Collector, Cuddalore
3. The District Revenue Officer, Cuddalore
4. The Revenue Divisional Officer, Vridhachalam
5. The Tahsildar, Veppur
6. The Surveyor, Veppur
7. The Village Administrative Officer, Sirupakkam
8. Manimegalai,
9. Sathish,
10. Sathiyapriya,
11. Minor Prakshiya

... Respondents / Defendants 1 to 7

This petition was filed on 18.12.2023 and coming before me for final disposal on 18.06.2026 in the presence of Mr.S.Murugavel, Counsel for Petitioner; R1 Died; Learned Govt. Pleader for R2 to R7; Mr.T.Veerappan, Counsel for R8 & R9; R8 & R9 set exparte for non-filing of their counter; R10 & R11 called absent and set exparte; 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.93/2024 has been filed by the Petitioner under Order XXVI Rule 10A and Section 151, 94(c) CPC for an order to re-survey the petition property by determining the boundary stones for the lands in S.Nos.267/1B,

267/2B, 267/2C Sirupakkam village with the assistance of Head Surveyor and file a detailed report along with plan.

2. BRIEF AVERMENTS OF THE PETITION:

2.1. The petitioner herein is the plaintiff in the suit and that he has filed a suit for declaration and permanent injunction.

2.2. There are many discrepancies in the first and second report of the Advocate Commissioner. The surveyor, who had mentioned the well located at the well number 267/1B and 267/2E in detail, did not mention the area in 267/2B and the area in 267/2E since the well located at the well number 267/2B and 267/2E were located at two different numbers. Further, during the second visit, the same surveyor systematically measured the stones. The Commissioner has filed a report stating that a large area of well is located in 267/2B without properly determining the points. The case is based on the ownership of the well it was located. Therefore, it is essential to the case that the full extent of this well is properly located in which subdivision. Hence, the present petition.

3. BRIEF AVERMENTS OF THE COUNTER FILED BY RESPONDENTS 2 TO 7:

3.1. The Respondents 2 to 7 have filed their counter as memo of objections. These Respondents have denied the entire averments contained in the affidavit of the Petitioner.

3.2. The Petitioner and his counsel having present at the time of survey ought to have been vigilant while measuring the petition property. The Petitioner having failed in his duty cannot seek for re-issue. Hence, this petition is liable to be dismissed with costs.

3.3. The Respondents 8 to 11 were set exparte.

4. POINT FOR CONSIDERATION:

Whether this petition shall be allowed?

Heard enquiry of both counsels and perused all the materials on record.

5. DISCUSSION AND REASONING:

5.1. On perusal of records, it is found that originally an application for appointment of Advocate Commissioner was filed by the 1st Defendant in I.A.No.167/2015 and the same was dismissed for default on 04-06-2018 for non-payment of remuneration to the Advocate Commissioner. Thereafter, the plaintiff filed an application for appointment of Advocate Commissioner in I.A.No.510/2018 and thereby Advocate Mr.C.Karunanithi was appointed as the Commissioner and he filed his report on 13-06-2022. Objections were filed by the 1st Defendant stating that without giving any notice to him, the property was measured and the Plaintiff did not file any objections. Subsequently, the 1st Defendant filed a petition for appointment of Advocate Commissioner in I.A.No.1/2022 and thereby the very same Advocate was appointed as the Advocate Commissioner to revisit the petition property but no scrapping of the report was

sought by the parties. Since a memo was filed stating that the erstwhile Advocate Commissioner passed away, another Advocate namely Mr.P.K.Mani was appointed as the Commissioner and he filed his report on 01-09-2023.

5.2. The plaintiff has filed his objections to the second report of the Advocate Commissioner. Now, the plaintiff has filed the present petition for re-survey without seeking for scrapping of the two previous reports. If this court allows this petition, then it would lead to multiplicity of reports and consequently this court cannot arrive at a just and fair conclusion.

5.3. On bare perusal of both the reports of the Advocate Commissioner, this court finds that the 1st sketch of the Commissioner does not contain the survey number nor the sub-division numbers and the entire measurements. Further, the 1st Report of the Commissioner does not specifically provide the entire extent of the alleged disputed well in the suit property.

5.4. According to both the reports of the Surveyor, it is found that the Eastern Well falls on S.No.267/2E & S.No.267/1B and the Western Well falls on S.No.267/2E & S.No.267/2B. However, according to the Petitioner/Plaintiff, both the wells are located in S.No.267/2E and he is claiming that the Eastern Well absolutely belongs to him and the Western Well belongs to the the Plaintiff and 1st Defendant. The Petitioner in his affidavit has categorically stated that “வழக்கே கிணற்றின் உரிமையை பொருத்து தான் அமைந்திருந்தது. ஆக இந்த கிணற்றின் முழு அளவு எந்த உட்பிரிவில் முறையாக உள்ளது என்பதனை வழக்கிற்கு அவசியமான ஒன்றாகும்.” In such circumstances, the Petitioner/Plaintiff cannot seek to use the

Advocate Commissioner as a tool to collect evidence to prove his case. It is for the Petitioner/Plaintiff to substantiate his case through oral and documentary evidence.

5.5. It is needless to state that the suit itself has been filed for the property in S.No.267/2E. Anyhow, in this petition, the petitioner has sought to measure and demarcate the boundary stones for the lands in S.No.267/1B, 267/2B & 267/2E. But the same is beyond the scope of the suit and this court cannot travel beyond the scope of the suit property. The present petition to re-issue the warrant, is only filed to merely fill up the lacuna.

5.6. The petitioner has not pointed out any discrepancy in the report filed by the Advocate Commissioner in order to seek the reissue of the warrant. No 'substantial error' or 'omission' has been demonstrated by the petitioner that would necessitate a reissue of the warrant to the commissioner. No material irregularity in the execution of the commission warrant has been demonstrated. Mere dissatisfaction with the conclusions arrived at by the Commissioner or a desire to secure a more favourable report cannot constitute a valid ground for re-issuance of the warrant.

5.7. It is a well-settled position of law that the Advocate Commissioner cannot be appointed for collecting evidence when it is for the party to collect evidence and prove his case. It is a settled principle of law that a Commissioner cannot be reappointed simply because one party is dissatisfied with the findings. Such a course would defeat the very object of appointing a Commissioner and would encourage repeated inspections until a favourable report is obtained.

5.8. Furthermore, the present petition to re-issue the warrant to the Advocate Commissioner to revisit the property is nothing but an attempt to prolong the suit proceedings. Reissuing the warrant at this stage would result in an unnecessary waste of time and an abuse of the process of law. Hence, the petition is devoid of merits and this court is not inclined to allow this petition.

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

Directly typed by me in my laptop, formatted by Typist, corrected and pronounced by me in the open court, on this the 2nd day of July 2026.

Additional District Munsif,
Tittagudi.

Fair Order
IA.93/2024 in
O.S.No.10/2015
Date: 02.07.2026