

IN THE COURT OF DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt.R.Mahalakshmi., B.A., B.L.,
District Munsif, Madurantakam
Wednesday, the 5th day of November, 2025

I.A.No.4/2024

in

I.A.No.2/2023

in

O.S.No.65/2023

1. Vijaya

2. Palanisamy

... Petitioners/Defendants

/ Vs /

Maniyammal

... Respondent/Plaintiff

This petition is presented before me for final hearing in the presence of Tr.S.Senthilkumaran, counsel for Petitioners and Tr.V.Mohan, counsel for respondent and after hearing the arguments on both sides and upon perusal of records and having stood over for consideration till this day, this court delivered the following,

ORDER

This petition is filed by the petitioner/defendants under Order XXVI Rule 9 of Code of Civil Procedure, to appoint an advocate commissioner note down the physical features of the entire suit properties and to measure the plaint schedule property and defendants properties with the help of Taluk Head Surveyor and submit his report with plan.

2. Brief of petition facts as follows:-

(i) The petitioner herein is 1st defendant in the suit and she files this petition on behalf of 2nd petitioner/2nd defendant. The petitioners states that the suit is filed by respondent/plaintiff for the relief of permanent injunction. The petitioner is the adjacent owner to the suit property which is situated on the eastern side of suit

property. The petitioner further states that they purchased the property in Old S.No.1/34 measuring an extent of 1155 sq.ft. by way of sale deed dated 27.08.1998. Therefore from the date of purchase the petitioners are in possession and enjoyment of the said property.

(ii) The petitioner further states that their family friend one Kasthuri purchased another property from the same vendor by way of sale deed dated 27.08.1998 which is situated to the southern side of her property. TSLR patta no.22 stands in the name of petitioner and said Kasthuri for an extent of 166 sq.mt. The petitioner further states that during June 2019, the respondent/plaintiff started to put up compound wall and try to fix gate in front of the suit property which was objected by the defendant and requested the respondent/plaintiff not to continue the construction without measurement. The petitioner further states that she is in possession and enjoyment of her property alone and she did not interfere with the respondent/petitioner peaceful possession and enjoyment at any point of time.

(iii) Further the petitioner states that the respondent had encroached an extent of 2 x 14 north-east side of property unlawfully and constructed a compound wall. Thereafter petitioner took steps to measure her property and it is confirmed that the respondent has encroached the petitioner property. Therefore there is a dispute with respect to boundaries between the petitioner and respondent. Therefore this petition is filed by the petitioner to appoint the advocate commissioner to measure the property with the help of Taluk Head surveyor. If the petition is not allowed the petitioner will be put to great loss and hardship. Hence the petition.

3. Counter filed by the 1st respondent/1st defendant and adopted by 2nd respondent/2nd defendant, in brief:

(i) This petition is not maintainable in law and on facts. The Respondent denies the entire allegations in the affidavit petition as false except those that are specifically admitted herein. The averments in the affidavit are false.

(ii) The respondent states that the petitioner/defendants has filed this petition with

false information and unclean hands. Further the respondent states that this petition is filed by the petitioner to drag on the case proceedings. There is no merits in this petition and hence the petition is liable to be dismissed.

4. The point for consideration in this petition is whether the petition is liable to be allowed or not ?

5. On the side of Petitioner, Ex P1 to P7 were marked and on the side of Respondent, no exhibits was marked and no witnesses were examined on both sides.

6. Heard both side. Records perused.

7. On perusal of records, it is seen that the suit is filed by the respondent/plaintiff for the relief of permanent injunction. It reveals from the schedule of suit property that defendant property is situated on the eastern side of the suit property. The respondent/plaintiff alleged that the petitioner/defendants are attempting to interfere with the respondent/plaintiff's peaceful possession and enjoyment of the suit property.

8. On contrary the petitioner/defendant alleged that during year 2019, when the respondent/plaintiff started to construct a compound wall and try to fix a gate in front of the suit property i.e., eastern side of the suit property. The petitioner/defendant objected the same and requested the respondent/plaintiff to stop the construction. Further the defendant alleged that when we took steps to measure his property it is found that the respondent/plaintiff encroached north-eastern side of his property measuring an extent of 2 x 14 and unlawfully constructed compound wall. Therefore there is a dispute between the petitioner and respondent regarding boundaries and hence it is necessary to appoint an advocate commissioner.

9. Therefore this court considers that as the petitioner alleged that there was an encroachment by the respondent and further there was a boundaries dispute between the parties, the appointment of advocate commissioner is necessary to find out the factual situation to resolve the dispute between the parties and for complete adjudication of the case. Hence this court decides to appoint advocate commissioner

to note down the physical features of the suit properties and measure the suit properties with the help of Taluk Head Surveyor, Madurantakam and to file his report.

10. In the result, this petition is allowed. No costs. Mr.G.Elumalai, Advocate is appointed as Advocate Commissioner in this petition and his remuneration is fixed as Rs.7,000/- (Rupees Seven Thousand only) and the same shall be paid by the petitioners directly to the Advocate Commissioner on or before 12.11.2025. The advocate commissioner is directed to inspect and measure the suit properties with the help of taluk surveyor and to file his report with plan within two months. Call on 06.01.2026.

Dictated to the Stenographer, typed by her and corrected and pronounced by me in open court on this the 5th day of November, 2025.

Sd/-R.Mahalakshmi
District Munsif
Madurantakam

Both side witnesses:

NIL

Petitioner side documents:

- Ex P1 - Certified copy of sale deed dated 27.08.1998
- Ex P2 - Certified copy of sale deed dated 27.08.1998
- Ex P3 - Computer Town Survey Land Register
- Ex P4 - Online copy of E Challan dated 19.05.2023
- Ex P5 - EB card (2 nos) (original)
- Ex P6 - EB receipt (original)
- Ex P7 - Online copy of Encumbrance certificate dated 03.04.2024

Respondent side documents:

- NIL -

Sd/-R.Mahalakshmi
District Munsif
Madurantakam