

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DINDIGUL

Present : Swarnam J. Rajagopalan, B.A. B.L., (HONS.)

Additional District Judge, Dindigul.

Thursday, this the 18th day of June 2026

I.A.No.4/2025

In

O.S.No.184/2025

Arulmigu Sri Bommayasamy Malaikovil belonging to Rajakambalanaickers of
J.Puthukkottai Rerpresented by B.Kanagaraj son of Bomminaicker

... Petitioner / Plaintiff

-Vs-

1. The Special Officer, Seeval Saragu Panchayat
2. The Block Development Officer,
Union Office, Aathur Taluk, Dindigul District.
3. The Thashildar, Aathur Taluk, Dindigul District.
4. The Revenue Divisional Officer, Revenue Divisional Office, Dindigul
5. The District Revenue Officer, Collector Office, Dindigul.
6. State of Tamil Nadu Represented by The District Collector, Dindigul.

... Respondents /Defendants

This petition came up for final hearing on 03.06.2026 before me in the presence of Learned counsel Thiru.K.Muthuvel, and Thiru.S.Balakrishnan, Advocates for Petitioner/Plaintiff. Thiru. Soosai Robert, Public Prosecutor for the Respondents/Defendants and upon heard enquiry on both sides and upon perusal of case records and upon having stood over for consideration of this court till this date and this court this day delivered the following:-

O R D E R

1. This petition has been filed by the petitioner/plaintiff under Order XXVI Rule 9 of the Code of Civil Procedure seeking appointment of an Advocate Commissioner to inspect the petition-mentioned property, note down the existing physical features found on the ground, take necessary photographs, prepare a sketch/plan and file a report before this Court.

2. Brief averments of the petition is as follows:

- i. The petitioner is the plaintiff in the suit. The suit has been instituted in a representative capacity on behalf of *Arulmigu Sri Bommayasamy Malaikovil, J. Puthukkottai*, representing the members of the Rajakambalanaickers community and their Kulapangalis, who are stated to be the worshippers and beneficiaries of the temple. The suit has been filed seeking a declaration that the suit property absolutely belongs to the plaintiff temple and for a consequential permanent injunction restraining the respondents from interfering with its peaceful possession and enjoyment.
- ii. According to the petitioner, the suit temple is a private temple exclusively belonging to the Rajakambalanaickers community of J. Puthukkottai and has been under their management and administration from time immemorial. The poojas, festivals, ancestral rites and other religious ceremonies are performed exclusively by members of the said community. It is further contended that the general public have

never exercised any right of worship or contribution in respect of the temple. The temple is stated to contain sacred Kambams and Nadukals worshipped as ancestral memorials, and the customs and practices followed therein are peculiar to the plaintiff community.

iii. The petitioner further states that the temple and its appurtenant structures are situated in Survey Nos.604 and 605 of Seeval Saragu Village, Athoor Taluk, Dindigul District, measuring an extent of 13 Acres and 86 Cents in all. Though the lands are classified as Government Poramboke lands, the revenue records allegedly describe them as "Kovil" lands. It is further averred that in O.S.No.158 of 1967, a compromise decree dated 20.08.1968 came to be passed, whereby an extent of 3 Acres situated on the south-western portion of Survey No.604 was allotted to the Panchayat and the remaining extent of 10 Acres and 86 Cents was recognised as belonging to the suit temple.

iv. The petitioner would contend that recently the respondents, allegedly under local political influence, attempted to take possession of the suit property for the purpose of constructing a stadium. Consequently, legal notices dated 25.01.2025 were issued. Apprehending interference with the possession and enjoyment of the property, the petitioner instituted O.S.No.184 of 2025 along with I.A.No.3 of 2025 seeking temporary injunction. Though the respondents have entered appearance, they have

not filed their written statements or counters and have been protracting the proceedings.

v. The petitioner further alleges that, despite the pendency of the suit, the interlocutory application and W.P.(MD) No.15899 of 2025 before the Hon'ble Madurai Bench of Madras High Court, the respondents are attempting to trespass into the suit property and alter its physical features. According to the petitioner, the respondents have undertaken ground levelling operations, sunk a borewell, erected fencing, uprooted sacred trees and commenced foundation work using jelly stones and concrete pillars with an intention to construct a stadium in the disputed property.

vi. Therefore, the petitioner contends that, in order to ascertain and preserve the present physical features of the property and to record the alleged encroachments and developments made by the respondents, appointment of an Advocate Commissioner has become necessary.

3. Brief averments of the counter in as follows:

i. The respondents submitted that the petitioner has filed the suit seeking declaration of title and consequential permanent injunction in respect of Survey No.604 situated in Seeval Saragu Panchayat, Athoor Taluk, Dindigul District, and seeks to restrain the respondents from establishing a playground in the said property, except in the south-western portion thereof.

- iii. According to the respondents, the temple relied upon by the petitioner is situated only in a small extent of land comprised in Survey No.604/1 on the eastern side. The proposed Sports Centre, according to the respondents, will neither affect any pathway rights nor interfere with the conduct of temple festivals. It is further stated that sufficient vacant land is available for worship and celebration of festivals and, therefore, the proposed construction will not cause any hindrance to the worshippers.
- iv. The respondents further contend that the claim of title made by the petitioner is false and unsustainable. According to them, the lands in question are Government lands. It is also stated that the alleged Sri Bommayasamy Temple measures only about 10 feet × 10 feet and that no revenue records, electricity service connection or tax receipts stand in the name of the temple.
- v. The respondents would further contend that the petitioner has not established any prima facie case and that the present petition has been filed only to delay the proceedings and obstruct a public welfare project, thereby causing hardship and inconvenience to the Government.
- vi. Hence, the respondents pray for dismissal of the petition.

4. Point for Consideration

Whether the petitioner/plaintiff is entitled to the appointment of an Advocate Commissioner as prayed for?

5. Discussion

Heard the learned counsel appearing on either side and perused the materials available on record.

i. The suit has been filed for declaration of title and consequential permanent injunction. A perusal of the pleadings would show that the dispute between the parties relates not only to the title over the suit property but also to its identity, nature, extent and existing physical features. The petitioner has specifically alleged that the respondents have undertaken certain developmental and construction activities within the suit property during the pendency of the proceedings. The respondents have denied the said allegations. Thus, the present physical condition of the property has become a matter of controversy between the parties.

ii. The object of appointing an Advocate Commissioner under Order XXVI Rule 9 CPC is to elucidate matters in dispute and to enable the Court to have a clear understanding of the factual aspects which can be better appreciated through local inspection. Such appointment is intended to assist the Court in effectively adjudicating the dispute and does not amount to collection of evidence on behalf of either party.

iii. In the present case, the controversy regarding the existing physical features of the property, the nature of the structures found therein and the alleged activities carried

out by the respondents can be properly ascertained only through a local inspection. The report of the Advocate Commissioner would assist the Court in arriving at a just and effective adjudication of the issues involved in the suit.

iv. Having regard to the nature of the dispute and the rival pleadings, this Court is of the view that appointment of an Advocate Commissioner is necessary to record the existing physical features of the suit property. Such appointment would not cause any prejudice to the respondents, as both parties would be given notice and opportunity at the time of inspection.

v. Accordingly, the point for consideration is answered in favour of the petitioner.

6. Result

In the result, this petition is allowed.

Mr.S.Bala Subramaniyan, Advocate, Enrollment No.6338/2023, is appointed as Advocate Commissioner to inspect the petition-mentioned property after issuing due notice to both parties. The Advocate Commissioner shall:

1. Inspect the petition-mentioned property;
2. Note down the existing physical features found therein;
3. Measure the property with the assistance of a qualified Surveyor, if necessary;
4. Record the nature of the structures, improvements or developments, if any, found in the property;

5. Take photographs of the property and annex the same to the report; and
6. Submit a detailed report along with a sketch/plan before this Court.

The remuneration of the Advocate Commissioner is fixed at **Rs.10,000/- (Rupees Ten Thousand only)**, which shall initially be borne by the petitioner. The petitioner shall pay 50% of the remuneration at the time of inspection and the balance at the time of filing of the report. Call on **20.07.2026** for filing of the Advocate Commissioner's report and plan.

Dictated to the stenographer, typed by her, corrected and pronounced by me in the Open Court on this the 18th day of June 2026.

Additional District Judge,
Dindigul

Both side witness and document : Nil

Additional District Judge,
Dindigul

Fair/Draft Order I.A.No.4/2025 in O.S.No.184/2025 D.O.D : 18.06.2026
