

IN THE COURT OF THE DISTRICT MUNSIF, SATHYAMANGALAM

**Present: Tmt.S.Susila B.A.,B.L.,
District Munsif, Sathyamangalam.**

Friday the 12th day of September 2025

I.A.No: 5/2025 in O.S.No:49/2018

1. Dr.Javeed Ibrahim
2. S.Palanisamy

..... Petitioners / Defendants

/Vs/

1. The Executive Officer,
Ariyappampalayam Town Panchayat
2. D.Santhanam
3. C.A.Palanisamy

..... Respondents / Plaintiffs

This petition came up for final hearing on 26.08.2025 in the presence of Thiru. S.A.Mohamed Mubarak Advocate for the Petitioners/Defendants and Thiru.N.D.Sampathkumar Advocate for the 2nd and 3rd Respondents/Plaintiffs and Thiru.A.K.Mathiazhagan Government Pleader for the 1st Respondent / Plaintiffs and upon hearing both the sides and on perusal of the case records and having stood over for consideration till this day, this court delivers the following.

ORDER

The petition filed by the petitioner U/O 26 R.9 and Sec.151 of CPC to appoint an advocate commissioner to visit the suit property, note down the existing physical features and file the detail report and plan of the petition mentioned property.

2. THE AVERMENTS OF THE PETITION IN BRIEF:-

Petitioner stated that, the suit property is not a vacant site but has an east west thar road within the boundaries. The Respondent / Plaintiffs deliberately did not seek appointment of a commissioner to record the true physical features of the property. Appointment of Advocate Commissioner is necessary to note down the physical features with photograph. It will help to avoid oral evidence and establish truth. Hence, the petition may be allowed.

3. THE BRIEF AVERMENTS OF THE COUNTER IS AS FOLLOWS:

The petition is false, vexatious. The Respondent pleaded that, suit property is vacant site with four boundaries. The respondent has filed this suit based on sale deed executed by vendor Mangammal, vide sale deed no.128/2018, dated 08.01.2018 all the documents and revenue records were produced. The petitioner has no ownership or possession of the property. Now the case is posted for defendant side evidence, to deviate the case this petition was filed. Hence, this petition to be dismissed with cost.

4. No oral and documentary evidence were marked.

5. POINTS FOR CONSIDERATION

Whether this petition filed for appoint the advocate commissioner Under/Order 26 R 9 and 151 of C.P.C has to be allowed or not?

5.1 The Petitioners / 2, 3 defendants has filed this petition to appointment of advocate commissioner to note down the physical features and take photograph and file a detailed report and plan.

5.2 The respondent opposed that, the respondent filed title documents and revenue records to prove his possession. The petitioners have no ownership or possession over the suit property. This petition is unnecessary at this stage. This

case posted for defendant side evidence.

5.3 On consideration of the pleadings and submission, this suit has filed only for permanent injunction and the question for determination is whether the respondent / plaintiff are in the lawful possession and entitled for the relief claimed. Now the case is posted for defendant side evidence. The duty of the respondent / plaintiff is to prove their case. The appointment of an advocate commissioner at this stage would not advance real issues, but on the contrary would enlarge the scope of the delay the trial. It is well settled that a commissioner cannot be appointed to collect the evidence on behalf of the parties. Hence, there is no prima facie in this petition. Hence, this petition is dismissed. No costs.

6. In the result,

The petition is dismissed without cost.

Dictated to the Steno-typist, typed by him directly in computer, corrected, printed and pronounced by me in open court on this the 12th day of September 2025.

District Munsif,
Sathyamangalam.

Petitioner side exhibits marked:-

Respondent side evidence and exhibits marked:- -Nil-

District Munsif,
Sathyamangalam.