

**IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,

II Additional District Munsif, Nagercoil.

Thursday, on the 3rd day of July, 2025.

I.A. No. 4 of 2025 in O.S. No. 224 of 2021

CNR No.TNKK04-000291-2021

Sakthivel

... Petitioner /Plaintiff

-VS-

1. T. Manikandan

2. V.K. Mala

... Respondents / Defendants

This petition came before this court on 02.07.2025 for a final hearing in the presence of Mr. J. Parthasarathy, Advocate for the Petitioner / Plaintiff and and Mr. S. Nagarajan, Advocate for the Respondents / Defendants and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

ORDER

The petitioner has filed the above petition under Section 151 of Code of Civil Procedure, seeking to record the objection of the Petitioner / Plaintiff and directed the Advocate Commissioner to revisit the Plaint schedule properties remeasure and note down the objections raised in the affidavit.

2) Gist of Averments in the Petitioner / Plaintiff Petition :

The petitioner is the plaintiff in the suit and petitioner / plaintiff has filed the suit for declaration and other reliefs. The petitioner had filed a petition for Commission Application in I.A.No.3 of 2022 and the same was allowed with the appointment of the Advocate-Commissioner G. Velam and she had visited the Plaintiff schedule property and with the assistance of the Taluk Surveyor and had filed a Report. In the report the Advocate Commissioner has averred and reported based on the sketch of the field handed over the Taluk Surveyor that the defendant has encroached 0.223 cents of land marked as CDLKJI which is scheduled as plaintiff 'B' schedule Property to the claim of 110 sq.ft. Further in the report the Advocate Commissioner had reported that the plaintiff has encroached 0.025 cents of land marked as DEF in the sketch submitted by the Advocate Commissioner. The measurement so reported was fictional and the defendant had not claimed any encroachment on the side of the plaintiff till date and the Town survey department had not properly measured the property and the record so placed in the Town survey department is deficient and it is subject to objection and the same is challenged in the submission submitted before this court and it may be recorded and the Advocate Commissioner may be directed to revisit the plaintiff schedule properties and it be measured properly in the larger interest of justice. If the plaintiff schedule property is not remeasured and proper report be submitted, petitioner will be put into irreparable loss and damages.

Hence, the petition is to be allowed.

3) Gist of the Averments in the Respondents / defendants Counter:

The Respondents / defendants have filed a counter stating that all the allegations except those that are denied as false. On the said day the Advocate Commissioner come along with Taluk surveyor had visited the plaint schedule property and had also measured that property with the help of Taluk Surveyor. The advocate commissioner submitted the commission report and plan to the court. There is no need for any revisit of plaint schedule property because till date. There was no encroachment done by the Respondent / defendant. The petitioner / plaintiff do this to purposely drag on the proceeding. Hence to accept the written statement and dismissed the petition.

4) The point for consideration is whether the above petition has to be allowed or not?

5) Point:

Heard both sides. Records perused. The petitioner / plaintiff filed this suit for Declaration, Mandatory injunction and Permanent injunction. On perusal of Advocate Commissioner Report and Plan, this court could satisfied that the learned Advocate Commissioner have noted what have been measured and observed during the visit. Hence, Revisit seems to be pointless and unnecessary. Furthermore, any disagreement may be filed by way of objection

report and this court would record and consider it scrupulously. In the light of above facts, this court is not inclined to allow this petition.

As a result, this petition is dismissed. No cost.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 3rd day of July 2025.

II Additional District Munsif,
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil.

Draft/Fair Order
I.A.No. 4/2025 in
O.S.No.224/2021
Date: 03.07.2025.
II ADM Court, Nagercoil.