

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

**Present:** Thiru. R. Sundara Kamesh Marthandan, M.L.,

I Additional District Munsif, Nagercoil

Wednesday, on the 12<sup>th</sup> day of March 2025

**I.A. No. 5 of 2022**

**in**

**O.S. No. 182 of 2022**

**(CNR No: TNKK04-000295-2022)**

M. Muthulingam

(Plaintiff for himself & on behalf of residents of south  
Street of Elanthayadi Thattu)

...Petitioner/Plaintiff

-vs-

1. Mrs. R. Selvam

2. Mr. R. S. Suganth

...Respondents/Defendants

This Petition came before this Court on 12.03.2025 for final hearing in the presence of Mr. L.Rajathurai, Advocate for the Petitioner/Plaintiff, Mr. M.Vignesh, Advocate for Respondents/Defendants. Respondents set exparte. Upon hearing the Petitioner's Counsel and upon Perusing the case records, having stood over till date for consideration this Court hereby delivers the following:

**ORDER**

1) The Petitioner had filed the above Petition Under Order XXVI, Rule 9 and Section 151 Code of Civil Procedure, seeking an order to appoint a Advocate Commissioner to note down the following points.

1. To note the physical features of the Plaintiff schedule public pathway.
2. To note down the Electricity poles, Telephone poles, which are planted in the Public street of Elanthayadi Thattu and the drawing of water line, through the schedule pathway.
3. To note down the existence of two Government buildings, Esakkiamman Kovil, a grave yard on the South of this Public Pathway.
4. To note down the existence of more than Ten houses, on either side of the Plaintiff schedule Public Pathway.
5. To note down, whether there is any alternative pathway for the above said houses, Temple, Government building and grave yard.
6. Such other point or points, that will be brought to the notice of the Commissioner, at the time of visit.

2) The Petitioner had stated that they have filed the Suit, for Declaration Permanent Injunction and for other reliefs. The Petitioner craved leave, of this Court to treat the Plaintiff averments as part and parcel of this Petition. The Petitioner had stated that the Defendants are causing obstruction, to the Plaintiff schedule property, which is a Public Pathway, over which, the Plaintiff and other residence of Elanthayadi Thattu have right to use. Hence issuance of Commission, for the points mentioned above, is very much essential, for proper and effective adjudication of the Suit. Hence, the above Petition.

3) The Respondents have not filed Counter. Hence, set exparte.

4) The Point for consideration is Whether, the above Petition is liable to be

allowed or not?

5) The Plaintiff has filed the above suit for declaration that the Suit Schedule Property, is a Public Pathway, belonging to the Plaintiff and the residence of South Street, Elanthayadi and for Permanent Injunction against the Defendants. The Plaintiff had pleaded that the Defendants had putup fence on 18.10.2021. Since it is stated that the Suit is filed for Declaration and that the Defendants are stated to have been obstructing the Suit pathway and that there are Government Buildings and Grave yard, have access through the suit Pathway, this Court is of the considered view that a Commission could be issued, to note the physical features of the Suit Schedule property.

In the result, the above Petition is allowed, and Advocate Mr. S. Saleem (Enr. No.1959/1994) (Mobile No.9843451538) is appointed as an Advocate Commissioner to note down the physical features of the Petition schedule property northern side wall, after giving due notice to both parties and file Report along with Plan, at the earliest. His remuneration is fixed at Rs.8,000/- (Rupees Eight Thousand Only), which sum, the Petitioner shall directly pay to the Advocate Commissioner and file Proof for Payment of the same. For filing proof as to payment of Commissioner's remuneration. Call on 20.03.2025.

Dictated to the Typist, and typed by him, corrected and pronounced by me, in Open Court this, the 12<sup>th</sup> day of March, 2025.

I Additional District Munsif,  
Nagercoil.

**Petitioner's side witnesses and documents : Nil.**

**Respondents' side witnesses and documents : Nil.**

I Additional District Munsif,  
Nagercoil.

I ADM, Nagercoil  
Draft/Fair Order  
I.A.No.5/2022 in  
O.S.No.182/2022  
Date: 12.03.2025.