

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI

Present : Selvi.A.Yughathymariya, B.Com, L.L.B.(Hons.,)

Additional District Munsif, Kulithalai.

Dated Tuesday, the 07th day of October 2025

I.A No.06/2025 in O.S No.20/2024

1) Rajammal

2) Pushpa

...Petitioners/Plaintiffs

- Vs -

1) Rajeswari

2) Duraisami

3) Rengasamy

4) Rajendran

...Respondents/Defendants

This petition has come up for final hearing on 26.09.2025 before this Court in the presence of Thiru.V.R.Balasubramanian, the Learned Counsel appearing for the Petitioners and in the presence of Thiru.R.Madhu, the Learned Counsel appearing for the Respondent No.2 and the Respondents No.1, 3 and 4 are set exparte, upon perusal of material records and having stood over for consideration till this day, this court delivers the following:

ORDER

This petition is filed under Under Section 151 of CPC in order to receive the objection to the commissioner report and plan filed by the commissioner in the above suit.

2) The Defendants/Respondents No.1, 3 and 4 are set exparte in the above suit and hence they are also set exparte in this petition as well.

Brief averments in the affidavit are as follows:

3) The Petitioner is the 1st Plaintiff in the above suit. The Advocate Commissioner has submitted his report and plan before this Court without giving

copies to the Petitioners. Hence, the Petitioners have filed copy application to get the copies of the surveyor plan and report of the commissioner. The same was issued to the Petitioners in the evening time of 01.08.2025. Hence, the Petitioners could not give necessary instructions to file objection to the report and plan submitted by the Advocate Commissioner. Meanwhile, this Court has closed the commission petition on 02.08.2025 without receiving the objections on the side of the Petitioners to the said report and plan. Due to the above said reasons, delay in filing objection to the commissioner report and plan had occurred. The delay is neither willful nor wanton and it happened unexpectedly and the same is excusable one. Unless this petition is allowed, the Petitioners will be put to much loss and hardships. Hence, this petition to receive the objections.

Brief averments in the counter filed by the 2nd Respondent:

4) The allegations in the Petition are all false, frivolous and vexatious and the same is denied in each and every particulars. The reasons mentioned in the affidavit to receive the objections in belated stage are not true as there is no valid and truthful objections raised by the Petitioners with regard to the Commissioner's report. The objections relating to the above said report is baseless as their objections are denying the existence of residential building and other super structures situated in this Respondents property which is in S.F.No. 575/A32 , which fact was admitted by the Petitioners/Plaintiffs in the plaint and it was also stated in the written statement of the 1st Defendant and her husband in O.S.No.226/2019. There is no merit in this application and hence, this petition is liable to be dismissed.

Points for determination:

5) Whether this petition is entitled to be allowed or not?

Evidence:

6) No oral and documentary evidence were adduced on either side.

Discussion:

7) Upon perusal of records, it is seen that in the above suit, a commission petition was filed on the side of the Petitioners/Plaintiffs in order to measure the suit property and to note down its physical features and the same was allowed by this Court on 04.02.2025. Thereafter, a Court Commissioner was appointed and she has filed the commissioner report along with plan and the surveyor plan and she returned the commissioner warrant to this Court on 21.07.2025.

8) It is also seen that when the commissioner has filed her report and plan, the above petition was closed by this Court only after making an endorsement to the effect that the above petition is closed and for filing objections if any, thereby giving both parties opportunities to file objections within 10 days from the date when the above petition was closed by this Court.

9) It could also be seen that after the said 10 days, when the matter was posted on 02.08.2025, both the parties have not filed any objection to the above said commissioner report and plan and hence this Court has proceeded with the above suit. This being so, this petition is filed by the Petitioners/Plaintiffs seeking this Court to receive the objection for the commissioner report, thereby condoning the delay happened on the side of the Petitioners to file the same.

10) It is submitted on the side of the Petitioners that the Advocate Commissioner had not given copies of the report and plan to them and hence the Petitioners had opted to avail the same by way of applying the certified copies of the report and plan and the said copy was issued to the Petitioners only in the evening of 01.08.2025, which resulted in not giving any instruction to file the objections and hence the delay.

11) On the other hand, it was stated by the 2nd Respondent in his counter that this petition to receive the objections to the commissioner report in such belated stage is baseless as in the said objections, the Petitioners had denied the existence of residential buildings and other super structures situated in this Respondent's property

in S.F.No.575/A32, which fact was admitted by the Petitioners/Plaintiffs in their plaint and therefore this Respondent has sought this Court to dismiss this petition.

12) Upon consideration of the submissions on the both sides, it is seen that this petition to receive the objections for the commissioner report was filed on the side of the Petitioners/Plaintiffs with a delay of two weeks from the date of order of this Court. It is also seen that the 2nd Respondent herein has also filed an application before this Court to receive the objections to the commissioner report on their side in I.A.05/2025 by stating the same reasons as stated by the Petitioners herein. The above said petition was also allowed by this Court by condoning the delay on the side of the 2nd Respondent herein in the interest of justice on 26.09.2025.

13) Similarly, this Court is of the view to give that leniency also to the Petitioners herein, as both the parties have faced the same difficulties in filing their objections to the commissioner report in the above suit. Also, the major objection placed on the side of the 2nd Respondent herein is that the Petitioners in their objections had denied the existence of the residential buildings and super structures situated in the 2nd Respondent's property.

14) This Court is of the view that if at all the objection submitted by the Petitioners are not true, the Respondents have to prove the same only at the time of trial by disproving the same with substantive evidence before this Court and on the same can not be decided here. This Court is also of the opinion that the Petitioners are also bound to prove their objections to the commissioner report but the same can be made only when the Petitioners will be given opportunity to prove the same in the trial of the above suit. Therefore, in order to avoid the technical irregularities and to render complete justice, this Court is inclined to allow this petition by condoning the delay caused on the side of the Petitioners to file the objection to the commissioner report. This Court also ensures that the Respondents would no way get prejudiced in allowing this petition.

Result:

In the result, in the interest of justice and on merits, this petition is allowed.
No costs.

Dictated to my steno-typist, directly typed by her in the computer, corrected by me and pronounced by me in the open court on this the 07th day of October 2025.

**Additional District Munsif,
Kulithalai.**

Petitioners side witness and documents	-	Nil.
Respondents side witness and documents	-	Nil.

**Additional District Munsif,
Kulithalai.**