

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI**

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

**Additional District Munsif, Kulithalai.**

**Dated Thursday, the 29<sup>th</sup> day of January 2026**

**I.A No.05/2025 in O.S No.60/2025**

V.Ravi

**...Petitioner/Plaintiff**

**- Vs -**

1) The District Collector, Karur District, having office  
at Collectorate, karur.

2) The Union Commissioner, Kadavur Union, having  
office at Kadavur, Kadavur Taluk, Karur District.

3) The Block Development Officer, Kadavur Union, having  
office at Kadavur, Kadavur Taluk, Karur District.

4) K.Veera Raghavan.

**...Respondents/ Defendants**

This petition has come up for final hearing on 19.01.2026 before this Court in the presence of Mr.A.R.Velu, the Learned Counsel appearing for the Petitioner and Respondent No.4 called absent and set exparte and in the presence of the Government Pleader Mr.K.S.M.Sakhul Hameed, the Learned Counsel appearing for the Respondents No.1 to 3 and 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 Order 26, Rule 9 of CPC by the Petitioner for the purpose of seeking permission of this Court for appointment of an Advocate Commissioner to inspect and measure the suit property and also for filing a detailed report and plan for the same.

2) Despite sufficient opportunities given to the 4<sup>th</sup> Respondent, the 4<sup>th</sup> Respondent did not file counter, called absent and hence set exparte by this Court.

**Brief averments in the affidavit:**

3) The Petitioner is the Plaintiff in the above suit. The above suit has been filed for the relief of Permanent Injunction restraining the Defendants from interfering with the peaceful possession and enjoyment of the suit property in any manner whatsoever. The suit property originally owned, possessed and enjoyed by one Ramasamy, who was the father of Karuppasamy. The suit property was purchased by the father of Ramasamy on 23.02.1959 by way of registered sale deed in Document No.72/1959.

4) After the demise of the said Ramasamy, his son Karuppasamy and his children had executed a registered sale deed dated 30.11.2001 in Document No.1332/2001 in favour of the Petitioner, thereby sold the suit property to him. The possession of the suit property was also delivered to the Petitioner on the date of purchase itself. The Petitioner has also obtained patta in his name in respect of the suit property and he has been paying the kist and all other taxes in respect of the suit property till this date.

5) The Petitioner has been in the possession and enjoyment of the suit property from the date of purchase till this date and the Petitioner is the absolute and full fledged owner of the suit property. Except the Petitioner, nobody has any right, title or interest over the suit property.

6) The 2<sup>nd</sup> Respondent is the Union Commissioner of the Kadavur Union, the 3<sup>rd</sup> Respondent is the Block Development Officer of the Kadavur Union and the 4<sup>th</sup> Respondent is the Contractor of the Kadavur Union. The 4<sup>th</sup> Respondent had attempted to trespass into the suit property on 31.01.2025 to dig the earth for the

purpose of constructing an overhead tank. However, the same was prevented by the Petitioner. The act of the 4<sup>th</sup> Respondent is against law and natural justice.

7) The Petitioner has approached the 2<sup>nd</sup> and the 3<sup>rd</sup> Respondents to advise the 4<sup>th</sup> Respondent to construct the overhead tank in the purambokke land vastly available in and around the Santhuaripatti hamlet of Palaviduthi Village. But the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents have threatened the Petitioner not to interfere with the construction of the overhead tank by the 4<sup>th</sup> Respondent. The 2<sup>nd</sup> Respondent and the 3<sup>rd</sup> Respondent have not followed the legal procedure.

8) The 4<sup>th</sup> Respondent was induced by certain ill-minded persons of the village living in Santhuaripatti hamlet of Palaviduthi Village to disturb the peaceful possession and enjoyment of the suit property by the Petitioner and he has been attempted to enter into the suit property without any valid reason. The 4<sup>th</sup> Respondent along with the earthmovers and with some other persons entered into the suit property thereby attempted to dig the earth on 21.02.2025. However, the said act was prevented by the Petitioner with great effort. In this regard, the Petitioner has also given an online police complaint and also sent a petition to the Hon'ble Chief Minister Cell on 21.02.2025 respectively.

9) The 4<sup>th</sup> Respondent has no right to enter into the suit property and the attempt of the 4<sup>th</sup> Respondent to enter into the suit property is an unlawful one and is against law. The Petitioner had filed an application through online to measure the suit property on 21.02.2025 and he approached the Thasildar, Kadavur Taluk to measure the suit property on 24.02.2025. But the Thasildar, Kadavur Taluk orally refused to measure the suit property with best reason known to him. The 4<sup>th</sup> Respondent is not a law abiding citizen and he did not follow the rules of law. The 4<sup>th</sup> Respondent has wild influence in and around the village of the suit property.

10) The nature of the case put forward by the Petitioner and the circumstances will certainly go to show that an order of appointment of a commissioner is absolutely necessary to decide the actual disputes between the parties. Appointment of commissioner will minimize much of oral evidence and it will be helpful for the Court to arrive at a finding which will totally decide the disputes between the parties. There is no legal impediment for an order of appointment of a commissioner. Hence, this petition for appointment of a commissioner to inspect the suit property and measure the same with the help of qualified surveyor and to submit a report along with the plan.

**Brief averments in the counter objection filed on behalf of the Respondents No. 1 to 3:**

11) This petition is unsustainable either in law or on facts and the Petitioner is not entitled to any relief as sought for by him. Except those averments which were expressly admitted by the Respondents herein, all other allegations contained in the affidavit are denied by the Respondents. In the above suit, issues have been framed and trial has commenced. Pending the same, this petition for appointment of commissioner is unsustainable. In fact, the above suit has been filed only for the relief of bare injunction and hence, in order to prove the possession of the Petitioner over the suit property, this petition has been filed by the Petitioner, in order to gather and collect evidence to prove his possession over the suit property. Therefore, this petition is liable to be dismissed in limine.

12) This petition has been filed only to drag on the above suit. This petition is an unwanted one. The Petitioner has no proper valid documents to prove his possession. Therefore, this petition has been filed by the Petitioner only to collect evidence for proving the factum of possession. The four boundary description of the petition mentioned property is not correct. The extent of the property is not correct. This

petition has no prima facie and without any reason this petition has been filed. Hence, this petition is liable to be dismissed with costs.

**Point for determination:**

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

**Evidence:**

14) On the side of the Petitioner, no oral evidence adduced. Ex.P1 to Ex.P6 were marked on the side of the Petitioner. However, on the side of the Respondents, there is no oral and documentary evidence adduced.

**Discussion:**

15) Heard both sides. Records perused. Upon perusal of records, it is seen clear that the above suit has been filed by the Petitioner/Plaintiff against the Respondents/Defendants for the relief of Permanent Injunction in respect of the suit property. Upon perusal of records, it is also seen clear that this petition has been filed by the Petitioner along with the above suit in the first instance itself. Admittedly, the above suit has ripened for trial by now.

16) It is the case of the Petitioner/Plaintiff that the suit property originally belonged to one Ramasamy and thereafter the demise of the said Ramasamy, his son Karuppasamy and his children had executed a registered sale deed dated 30.11.2001 in Document No.1332/2001 in favour of the Plaintiff thereby sold out the suit property to him.

17) The Petitioner further contented that the possession has been delivered to the Petitioner on the date of purchase itself and patta has also been transferred in the name of the Petitioner in respect of the suit property and he has been paying the kist

and all other taxes in respect of the suit property. Therefore, the Petitioner has alleged that he has been in the continuous possession and enjoyment of the suit property from the date of purchase till this date.

**18)** Further, the Petitioner alleged that this being so, the 4<sup>th</sup> Respondent has attempted to trespass into the suit property on 31.01.2025 to dig the earth for the purpose of constructing an overhead tank over the suit property and the same was prevented by the Petitioner. The Petitioner further alleged that the 2<sup>nd</sup> and the 3<sup>rd</sup> Respondents openly threatened the Petitioner not to interfere with the construction work of the overhead tank by the 4<sup>th</sup> Respondent.

**19)** The Petitioner also submitted that the 4<sup>th</sup> Respondent along with the earthmovers and some other persons had entered into the suit property by attempting to dig the earth on 21.02.2025 and the same was prevented by him. In this regard, a police complaint and the petition to the Hon'ble Chief Minister Cell was also been given by the Petitioner on 21.02.2025.

**20)** The Petitioner had also alleged that to measure the suit property. He had filed an application through online on 21.02.2025 and approached the Thasildar on 24.02.2025 but the same was refused. Therefore, the Petitioner is alleging that an order of appointment of commissioner is absolutely necessary to decide the actual dispute between the parties and it will minimize much of oral evidence and also it will be helpful for the Court to arrive at a conclusion in respect of the disputes between the parties.

**21)** Per contra, the major objection that has been raised on the side of the Respondents No. 1 to 3 is that the above suit has also been ripened for trial. Pending the same, this petition has been filed by the Petitioner only to collect and gather evidence in his favour to prove his possession in a suit for bare injunction. Therefore, the Respondents have contented that the above suit being a bare injunction suit, to

find out the factum of possession appointment of commissioner is not warranted and therefore, they have sought this Court to dismiss this petition.

**22)** In order to substantiate the contentions of the Petitioner, Ex.P1 to Ex.P6 were marked on his side. Ex.P1 is the Registered Sale Deed, dated 30.11.2001 in Document No.1332/2001 executed by one Karuppasamy for himself and also for his minor sons in favour of the Petitioner thereby sold out the suit property in his favour. Ex.P2 is the Computerized copy of the Patta in Patta No.222, dated 10.03.2025. Upon perusal of Ex.P2 Patta, it is seen that in respect of the suit property, the said patta is standing in the name of the Petitioner. Ex.P3 is the Series of Kist Receipts which are standing in the name of the Petitioner in respect of the property in Patta No. 222 which is none other than the suit property.

**23)** Ex.P4 is the Office copy of the complaint given by the Petitioner to the Superintendent of Police, Karur District dated 21.02.2025 and the online printout of the acknowledgment of the said complaint. Upon perusal of the complaint given by the Petitioner, it could be seen that in respect of the suit property he has levelled upon certain allegations against the Respondents herein with regard to the encroachment of the suit property by way of attempting to construct overhead tank by the Respondents over the same. However, upon perusal of the said online receipt, it is seen that in the name of the complainant, it has been specified as 'Thiyagarajan'. However, the above office copy of the complaint attached there with shows that the said complaint has been given by the Petitioner.

**24)** Ex.P5 is the office copy of the complaint given by the Petitioner to the Hon'ble Chief Minister Cell, Chennai dated 21.02.2025. Upon perusal of the said complaint copy, it could be seen that in respect of the suit property, the said complaint has been given by the Petitioner against the Respondents alleging about the construction of overhead tank over the suit property and the encroachment attempted to be made by the Respondents. Ex.P6 is the online copy of the acknowledgment receipt dated

21.02.2025. Upon perusal of Ex.P6, it could be seen that this Petitioner had approached the revenue officials for the purpose of surveying the suit property and has paid certain amount of fees for the same and had obtained the said acknowledgment receipt for the same. There is no oral evidence adduced on the side of the Petitioner. On the other hand, there is no oral and documentary evidence adduced on the side of the Respondents.

**25)** Upon careful consideration of the submissions made on both sides and upon perusal of the material records available on hand, this Court is of the view that the documents which are exhibited on the side of the Petitioner would establish a prima facie case on his hand. It is settled position of law that in a suit for bare injunction, appointment of commissioner should not be warranted for the purpose of proving the factum of possession to gather and collect evidence in this regard. Admittedly, the above suit is a bare injunction suit filed by the Petitioner/Plaintiff against the Respondents/Defendants thereby restraining them from interfering with the peaceful possession and enjoyment of the suit property by the Petitioner.

**26)** However, in the above suit and as well as in this petition, the Petitioner has strongly contented that the 4<sup>th</sup> Respondent/ 4<sup>th</sup> Defendant had attempted to trespass and encroach into the suit property by way of digging the earth for the purpose of constructing an overhead tank into the suit property. Therefore, it is seen clear that the petitioner has levelled upon allegations of encroachment against the Respondents in and over the suit property. The factum of encroachment can very well be established by way of measuring the suit property and by inspecting the same and the same would not amount to gather or collect evidence for proving the factum of possession.

**27)** This Court finds prima facie case in favour of the Petitioner. Moreover, there is no specific objection on the side of the Respondents. The 4<sup>th</sup> Respondent was also remained exparte. This apart, the major issue that is existing between the parties in

the above suit is the allegation of encroachment by the Respondents/Defendants over the suit property. Therefore, this Court is of the view that in order to report as to the factum of alleged encroachment, the appointment of a commissioner is necessary to measure the suit property and to inspect the same. To elucidate the matter in dispute between the parties in the above suit, this Court deems it fit to allow this petition for appointment of commissioner to inspect and measure the suit property.

**Result:**

In the result, with the above observations, this petition is allowed. Advocate Mrs.A.Kayalvizhi is hereby appointed as the Advocate Commissioner. The Advocate Commissioner shall inspect the suit property by giving prior notice to both the parties herein, shall measure the same with the help of qualified surveyor and shall file report and plan along with the surveyor's plan before this Court. The Petitioner shall pay to the Commissioner a remuneration Rs.8,000/-. It is further ordered that the Petitioner shall pay to the commissioner the said remuneration directly on or before 15.02.2026, failing which this order shall stand automatically vacated.

Dictated to my steno-typist, taken down by her in short hand and typed by her in the computer, corrected by me and pronounced by me in the open court on this the 29<sup>th</sup> day of January 2026.

**Additional District Munsif,  
Kulithalai.**

Petitioner side witness - **Nil.**

Petitioner side documents:

Ex.P1	30.11.2001	The Registered Sale Deed in Document No.1332/2001
Ex.P2	10.03.2025	The Computerized copy of the Patta in Patta No.222
Ex.P3	-	The Series of Kist Receipts

Ex.P4	21.02.2025	The Office copy of the complaint given by the Petitioner to the Superintendent of Police, Karur District and the online receipt.
Ex.P5	21.02.2025	The office copy of the complaint given by the Petitioner to the Hon'ble Chief Minister Cell, Chennai.
Ex.P6	21.02.2025	The online copy of the acknowledgment receipt

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

**Additional District Munsif,  
Kulithalai.**