

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

**Present: Thiru.S.Pragatheeshwaran, M.A., B.L.,**

**Additional District Munsif, Kulithalai.**

**O.S.No.36/2020, IA.No.04/2021**

**25<sup>th</sup> day of April 2023**

1) Chitradevi

.... Petitioner/Plaintiff

/VS/

1) Veerasamy and 4 others

.... Respondents/Defendants

This petition is coming before me on 25.04.2023 for final Hearing in the presence of Mr.A.Jaffer Shet, Advocate for Petitioner/plaintiff and in the presence of Mr. S.Baskar, Advocate for Respondents/Defendants and upon considering the oral and documentary evidence and other materials produced before this court, and having stood over consideration before this court till this day, this court delivers the following...

**ORDER**

1) The suit was filed by the plaintiff for the relief of Permanent Injunction against the defendants. The main suit is pending at the stage of Framing of Issues.

2) The present petition is filed under Order 26 Rule 9 of CPC, to appoint an Advocate Commissioner to locate the suit properties and to notedown the physical features and to find out the encroachment made by Respondents/defendants in the Suit Properties with the aid of qualified surveyor.

Now, the question/issue before this court that,

1.Whether this petition is liable to be allowed or not ?
--

3) Upon perusal of available records, this court found that the measurement of the suit property is necessary, since the plaintiff has asserted that the suit properties is in possession and enjoyment of the plaintiff, before and from the issuance of assignment patta in favour of plaintiff. The defendant is only a adjacent owner of east of the suit property.

4) On the other hand, the defendant submitted that, the plaintiff only encroached the defendant's property by holding the assignment patta. The plaintiff are not in anyway connected with the said property, because the same is in exclusive possession and enjoyment of the defendant who have been claiming the right over the property.

5) Therefore, appointment of Advocate commissioner would not cause serious prejudice to the defendant. Moreover the appointment of Advocate commissioner is proper for the purpose of elucidating the matter in dispute. Therefore it is just and necessary to allow this petition in the interest of justice.

6) Accordingly Advocate Mr.S.Sivasubramanian is appointed as Advocate commissioner, the remuneration for the Advocate commissioner is fixed as Rs.8,000/-. The parties to the proceedings are directed to co-operate with the Advocate commissioner to inspect the suit property. The Advocate commissioner is directed to inspect the suit property after giving due notice to the both parties and surveyor of that area and further directed to file his report and plan on or before 12.06.2023.

In the result, the this petition is allowed, no cost.

Dictated by me to the Typist, typed by him, and corrected by me and pronounced this Orders in the Open Court, on this day of 25<sup>th</sup> day of April, 2023.

Additional District Munsif,  
Kulithalai.