

**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUCHENGODE**

**Present: Tmt.G.Rubana, B.Sc., M.L.,
Additional Subordinate Judge, Tiruchengode.**

On Thursday, this the 11th day of September 2025

R.E.A.No.04 of 2025

in

R.E.A.No.02 of 2024

in

R.E.P.No.36 of 2013

1. Mr.S.R.Venkatachalam,
2. Mr.M.Thangaraj,
3. Mrs. M. Palaniyammal,
4. Mrs. K.Kalaivani,
5. Ms.M.V.Thakshana,
6. Mr.M.V.Suba Varshan,

... Petitioners/ Petitioners/ Claimants.

//Versus//

- 1.Mr.S.Sundararaj,
2. Mr.C.Rajavel,

... Respondents / Respondents.

This petition has been filed on 29.08.2025 and coming on 03.09.2025 this day for final hearing before me in the presence of Advocate Mr.K.Manivel, B.A., B.L., for the Petitioners/ Petitioners / Claimants and advocate Mr.S.Palanivelu, B.Sc., B.L., for the 1st Respondent and the 2nd Respondent called absent set ex-parte and having stood over for consideration till this day, upon perusing the connected material parts of records and hearing both side side arguments, this court doth delivers the following;

Order

This application has been filed by the Petitioner under Order 16 Rule 1 of the Code of Civil Procedure, seeking to summon the Village Administrative Officer of Elanthakuttai Village, Kumarapalayam Taluk to give evidence regarding boundaries of the land in S.No.184/1C and S.No.184/4C of Elanthaikuttai Village.

(II). The gist of the affidavit filed by the 1st petitioner is as follows: -

(i). The petitioner submits that he is the first petitioner herein and the claimant in E.A. No. 2 of 2024, and he files this affidavit for himself and on behalf of the other petitioners. The petitioners filed the claim petition to raise the attachment made in respect of Survey No. 184/1C of Elanthakuttai Village. The first respondent has erroneously included this property in the execution proceedings and is attempting to bring the same for sale, though it belongs to the petitioners.

(ii). In the schedule of property, the first respondent mentioned Survey No. 184/4C. In fact, Survey No. 184/1C lies on the northern extremity of Survey No. 184, whereas between Survey Nos. 184/1C and 184/4C there exist other survey numbers, namely 184/1D2 and 184/4B2. By suppressing this fact, the respondent wrongly included the four boundaries of the petitioners' land in the execution petition with a view to extract money illegally. Even after filing of the claim petition, the respondent has disputed the factual position and, during cross-examination of PW1, suggested that Survey Nos. 184/1C and 184/4C are within the same boundaries.

(iii). Therefore, to establish the actual topography of the land, it is just and necessary to examine the Village Administrative Officer of Elanthakuttai Village, Kumara Palayam Taluk. Unless such evidence is taken, the petitioner will suffer hardship and prejudice.

(III). The gist of the counter statement filed by the 1st respondent / degree holder is as follows: -

(i). The first respondent submits that the petition is false, frivolous, and unsustainable in law and on facts. The first respondent does not admit any of the allegations made in the petition, except those specifically admitted herein. It is denied that the first respondent has erroneously mentioned the property in the execution application for attachment and sought to be brought for sale includes the property belonging to the petitioners. It is further denied that Survey No. 184/1C belongs exclusively to the petitioners.

(ii). It is true that Survey Nos. 184/1C and 184/4C are abutting lands. However, it is not true to say that Survey No. 184/1C is situated at the extreme northern end of Survey No. 184 or that there exist other intervening survey numbers between 184/1C and 184/4C. In fact, there is no boundary dispute, and it is false to allege that the first respondent has suppressed the actual topography of the land in Survey No. 184 of Elanthakuttai Village or wrongly described the property in the execution application with a view to extract money.

(iii). Further, the Village Administrative Officer is a government official, and he cannot depose on the basis of his personal knowledge. He can only rely on official records, which are public documents such as the Field Measurement Book (FMB) and patta, all of which are available online. The petitioners themselves can obtain and produce the said records. Summoning the VAO is therefore unnecessary. Possession, if any, must be proved by proper evidence and witnesses, along with the relevant revenue records. Even otherwise, the Court is competent to ascertain the location of the property. Hence, this petition is devoid of merits and liable to be dismissed.

IV). Points for Determination :

Whether this Petition is to be allowed or not?

(i). Heard the learned counsel for the petitioner and respondent and perused the records.

(ii). The learned counsel for the petitioner submitted that the first respondent is the decree holder and the second respondent is the judgment debtor. The petitioner purchased the property from the decree holder on 13.05.1998. Thereafter, on 11.12.2003, the judgment debtor borrowed a loan from the first respondent, i.e., five years after the execution of the sale deed. In the suit proceedings, the suit property was attached, and again, in the year 2016, attachment was made in the execution petition. Neither in the suit nor in the execution petition did the decree holder produce any document to establish his claim. It is further submitted that there are two intervening survey numbers between the petitioner's land in Survey No. 184/1C and the land in Survey No. 184/4C. However, the respondent has erroneously mentioned the boundaries of Survey No. 184/4C while describing Survey No. 184/1C. To prove this fact, the petitioner seeks permission to summon the Village Administrative Officer to produce the relevant revenue records and depose with regard to the said boundaries.

(iii). The learned counsel for the respondents submitted that the VAO is a government official and cannot depose based on his personal knowledge. All the relevant records are public documents available online, which the petitioner could have very well obtained and produce before this Court. Hence, the counsel prayed for dismissal of this petition.

(iv). The petitioner has filed this application seeking to summon the Village Administrative Officer, Elanthakuttai Village, KumaraPalayam Taluk, along with the relevant revenue records, to establish that there exist two intervening survey numbers, namely Survey Nos. 184/1D2 and 184/4B2, lying between Survey Nos. 184/1C and 184/4C.

(v). The respondent has filed a counter stating that the petition is frivolous and that the said records are public documents, such as the Field Measurement Book (FMB) and patta, which are available online. It is further contended that the petitioner can obtain and produce the same before the Court, and that summoning the Village Administrative Officer is unnecessary.

(vi). On consideration, this Court finds that the dispute relates to the actual topography and relative position of the survey numbers in Survey No. 184 of Elanthakuttai Village. Though the revenue records are available online, the petitioners have sought to establish the correctness of the boundaries through the competent revenue authority. In the circumstances, to enable proper adjudication of the dispute and to avoid future controversy as to the authenticity of the documents, the presence of the Village Administrative Officer with the original records would assist this Court.

(vii). Accordingly, this petition is allowed. Issue summons to the Village Administrative Officer, Elanthakuttai Village, to appear before this Court on the next hearing date and produce the relevant records relating to Survey Nos. 184.

Result:-

In the result this petition is allowed. No cost.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 11th day of September 2025.

Additional Subordinate Judge,
Tiruchengode.

Petitioner and Respondan side oral and documentary evidence : Nil

Additional Subordinate Judge,
Tiruchengode.

Fair/draft order
R.EA.NO. 04/2024 in
R.E.A.No.02/2024 in
R.E.P.No. 36/2013
Date :11.09.2025