

In the Court of District Munsif, Mudukulathur

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Monday the 24th day of November 2025

I.A.No.01/2025

in

O.S.No.09/2025

Pandi

..... Petitioner/Plaintiff

/VS/

1. Rajendhiran

2. Irulandi

..... Respondents/Defendants

This petition came on 23.10.2025 before this court for a final hearing in the presence of Thiru.K.Velusamy, Learned Counsel for the Petitioner/Plaintiff, Thiru.S.Chandrasekaran, Learned Counsel for 1st Respondent/ 1st Defendant, Thiru.K.Alagarsamy, Learned Counsel for 2nd Respondent/ 2nd Defendant and upon hearing both sides enquiry and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition has been filed under Order 26 Rule 9 of Civil Procedure Code to appoint an advocate commissioner to note down the physical features of the suit property and to file a report and plan measuring the encroachment made by the respondents in the suit property

2. The contention of the Petitioner/Plaintiff in brief:-

The petitioner is the plaintiff in the main suit. The suit property is the absolute property of the petitioner and UDR patta is also mutated in his name. The 2nd defendant has fraudulently subdivided the survey number 383/2B in his name and the said fraudulent patta was rejected by the order of the Tahsildar. The 1st defendant had encroached to an extent of 142 ft in the north west side of the suit

property. This suit is filed for the relief of declaration and recovery of possession. Hence prays to appoint an advocate commissioner to note down the physical features of the suit property and to file a report and plan measuring the encroachment made by the respondents in the suit property in the interest of justice or else this petitioner will be put to irreparable loss and hardships.

3. Brief averments of the 1st Respondent/ 1st Defendant (R2 Adopted the counter of R1) in brief:

The respondents deny the averments in the petition. There is no dispute as to boundary, extent or identification of the suit property. Hence a commissioner cannot be appointed. Already the suit property was measured and there was no encroachment. Hence this petition is only filed to drag on the proceedings. No explanation given as to the need for a commission. Hence this petition is liable to be dismissed.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

No documents filed on either side. Heard both sides.

5. Answer to the Point:-

5.1. The petitioner has filed this present petition for appointing an advocate commissioner to inspect the suit property to identify the physical features and to measure the encroachment made by the 1st defendant in the suit property. On the other hand the respondents object to the present petition by stating that there is only a title dispute and there are no disputes in respect to the boundary, extent or identification of the suit properties.

5.2. On perusal of plaint and written statement it can be seen that the defendants in their written statement themselves state that there is no such property as identified by the petitioner in the site and claims to have fenced his own property. It is also admitted by both the parties that the property of the 1st

defendant is situated north of the suit property and the petitioner claims that the respondents have encroached on the northwestern side of the suit property. This itself shows that the parties are adjacent land owners and there appears to be a boundary dispute between the parties to the suit. Also considering the fact that this suit is filed for the relief of recovery of possession, appointing a commissioner will help the court to arrive at a conclusion for the issue in hand. In the case on hand, It is admitted that the defendants are the adjacent land owners on the northern side of the suit property and there is a dispute as to the boundary and the commissioner's report and plan would help the court in effective disposal of the suit.

5.3. Hence, in the light of the above discussions, this petition is allowed and this court appoints advocate C.Karpagavalli J/o.S.Arichandran as commissioner. This court directs him to inspect the suit property, after giving notice to both parties, along with surveyor and V.A.O with the help of revenue records and to note down physical features and draw sketch and file report and plan. Total commissioner fee is fixed as Rs.6,000/-. In which the petitioner is directed to pay Rs.3,000/- at the time of inspection and remaining Rs.3,000/- to be paid at the time of filing report and plan by the advocate commissioner. For commissioner report and plan call on 05.01.2026.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 24th day of November 2025.

**District Munsif,
Mudukulathur.**

Both sides witnesses and documents : Nil

**District Munsif,
Mudukulathur.**