

In the Court of District Munsif, Mudukulathur

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

District Munsif,

Mudukulathur.

Thursday the 17th day of July 2025

I.A.No.3/2025

in

O.S.No.12/2024

1. Muthuramalingam
2. Angumuthu
(Plaintiffs through them and representatives of
Iraichikulam Village peoples, I.Veppankulam,
Arulmigu Sri Mangai Sonai Muniyappasamy
Kovil)

..... Petitioners/Plaintiffs

/VS/

1. Irulayi
2. Krishnan
3. Ponnu
4. Muniyammal
5. Packiam
6. Palanisamy
7. Manimegalai
8. Indira Sakthi

..... Respondents/Defendants

This petition came on 03.07.2025 before this court for a final hearing in the presence of Thiru.Y.T.Ansari, Learned Counsel for the Petitioners/Plaintiffs and Thiru.J.Karthik, Learned Counsel for the Respondents/Defendants and upon hearing both sides arguments 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 for appointing an advocate commissioner and directing him to inspect the suit property to note down the physical features, to measure and to prove that the suit properties absolutely belongs to the petitioners, Arulmigu Srimangai Sonai Muniyappasamy Temple with the help of the Taluk Surveyor.

2. The contention of the Petitioners/Plaintiffs in brief:-

The petitioner is the 1st plaintiff in the main suit. He has filed this petition for himself and on behalf of the 2nd plaintiff. The petitioners states that the suit property belongs to the Arulmigu Srimangai Sonai Muniyappasamy Temple and it is also stated that the suit property originally belonged to one Mohamed Abubakar and he transferred the same in favour of Muthu Irulandi Thevar S/o. Arumuga Thevar as a representative for the said Arulmigu Srimangai Sonai Muniyappasamy Temple. The said Muthu Irulandi Thevar transferred the suit property in favour of Arulmigu Srimangai Sonai Muniyappasamy Temple by way of an unregistered Promise Deed on the same day and the proceeds from the said land has been used for the maintenance of the said temple. Now the respondents who have no right over the suit property is trying to interfere that the peaceful possession of the same. Hence this petition is filed to appoint an Advocate Commissioner to prove that the suit property is in the absolute ownership and enjoyment of the said Arulmigu Srimangai Sonai

Muniyappasamy Temple and to file a detailed report and plan by inspecting the physical features of the suit property with the help of Taluk Surveyor. Hence this petition.

3. Brief averments of the 3rd respondent files counter for himself and on behalf of the 1st, 2nd, 4th to 8th Respondents/Defendants in brief:

The respondents deny the averments in the petition. The Respondents admit that the property belonged to their father Muthu Irulandi Thevar S/o. Arumuga Thevar but denies the fact that he has executed a Promise Deed to the Arulmigu Srimangai Sonai Muniyappasamy Temple. It is stated that the father of the respondents Muthu Irulandi Thevar was in the possession and enjoyment of the suit properties till his death. And after his demise the respondents who are the legal heirs of the said Muthu Irulandi Thevar is now in the possession and enjoyment of the suit properties. Also denies that the said Arulmigu Srimangai Sonai Muniyappasamy Temple is a common temple but states that the said temple has been constructed by 5 partners one among whom is the father of the respondents Muthu Irulandi Thevar. There is no need to appoint an Advocate Commissioner to measure the properties which are not in the possession and enjoyment of the petitioners. Hence prays to dismiss this petition with costs.

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. Both the parties admitted the fact that the suit properties vested with the Muthu Irulandi Thevar S/o. Arumuga Thevar by way of sale deed dated 29.06.1990 in Doc.No.616/1990. But the petitioners contend that the said suit properties were purchased in the name of the Muthu Irulandi Thevar as a representative for the Arulmigu Srimangai Sonai Muniyappasamy Temple and on the same day, the said Muthu Irulandi Thevar executed a Promise Deed by transferring the rights over the suit properties in favour of the Arulmigu Srimangai Sonai Muniyappasamy Temple.

5.2. On the other hand the respondents deny that the property was purchased in the name of their father on behalf of the temple. It is stated that the property was purchased by their father and it is his self acquired property but till the date of his demise he was in the absolute possession and enjoyment of the suit properties. Also denies that no such Promise Deed has been executed by the Muthu Irulandi Thevar in favour of the Arulmigu Srimangai Sonai Muniyappasamy Temple. The said document is an unregistered one and was forged by the petitioners.

5.3. On perusal of the records it is seen that both the parties do not deny the existence of the temple on his properties but the petitioners contend that the

Arulmigu Srimangai Sonai Muniyappasamy Temple is a common property and is accessed by the villagers. On the other hand the respondents contend that the suit property is not a common property but the temple only belongs to the family members of the respondents. Now this petition is filed to elucidate that the suit properties belongs to the petitioners and is in their absolute ownership, possession and enjoyment. But the commissioner cannot be appointed to prove their possession or title. The question of title and possession has to be proved on the basis of revenue records and title documents. Hence this court is of the view that it is not necessary to appoint an Advocate Commissioner in this petition. Since the possession of the suit properties must be established by the plaintiffs by oral and documentary evidence and on the basis of revenue records, appointing a Advocate Commissioner will amount to collection of evidence. Also it is well settled that the commissioner cannot be appointed in a suit for bare injunction where it may amount to collection of evidence. Hence, in the light of the above discussions, this petition is dismissed.

In the result, this petition is dismissed. No costs.

Dictated to the Steno Typist, transcribed and typed by her, corrected and pronounced by me in open court on this 17th day of July 2025.

**District Munsif,
Mudukulathur.**

Both sides witnesses and documents : Nil

**District Munsif,
Mudukulathur.**

