

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.03/2023

in

O.S.No.34/2023

S.G.R.Mookoran

..... Petitioner/Plaintiff

/VS/

1. Veerpathiran
2. Udaiyammai
3. Ramamoorthy
4. Murugesan
5. Bose
6. Madasamy
7. Ramar
8. Arumugam
9. Selvi
10. Karpagavalli
11. Lakshmi

..... Respondents/Defendants

(R9 to R11 are Lrs of deceased R4, allowed as per order in I.A No.08/2024, Dt:12.12.2024 and Amended as per order in I.A No.11/2025, Dt:25.02.2025)

This petition came on 01.11.2025 before this court for a final hearing in the presence of Thiru.K.Velusamy, Learned Counsel for the Petitioner/Plaintiff, Thiru.S.Arichandran, Learned Counsel for 1 to 3 Respondents/ 1 to 3 Defendants, 4th Respondent/4th defendant died, Thiru.Samayadurai, Learned Counsel for 5 to 8 Respondents/Defendants and 9 to 11 Respondents/Defendants set exparte 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 a commissioner to note down the physical features of the suit property as per sale deeds dated 19.12.1990 and 18.09.1959 and to file report and plan.

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

The petitioner is the plaintiff in the main suit. The suit property in survey number 292/1 is the absolute property of the petitioner by way of sale deed dated 19.12.1990. The property in survey number 292/2 in the east boundary of the suit property is the absolute property of Arumuga thevar by way of sale dated 18.09.1959. It is in the possession and enjoyment of the 5 to 8 respondents. The 1st respondents house is located in survey number 292/3. The 1st and 4th respondents have by way of a fraudulent sale deed dated 02.03.2010 transferred property which is not at the site. Hence it is necessary to appoint a commissioner to note down the physical features of the suit property as per sale deeds dated 19.12.1990 and 18.09.1959. Hence prays to allow the petition or else the petitioner would be put to irreparable loss and hardships.

3. Brief averments of the 1 to 3 Respondents/ 1 to 3 Defendants (Adopted the written statement as counter) in brief:

The respondents deny the averments in the petition. The extent, four boundaries as mentioned by the petitioner is false. The survey number of the suit property is also wrongly identified by the petitioner. The suit property is situated partly in survey numbers 292/2 and 292/3. The suit property is the absolute property of the 1st defendant by way of sale deed dated 02.03.2010 and survey number 292/3 is the ancestral property of the 1st defendant. The petitioner is claiming more than what he is entitled as per his sale deed dated 19.12.1990 in survey number 292/1. The suit property is already surveyed by the order of the Honourable High Court in Writ petition. Hence prays to dismiss the petition.

4. Brief averments of the 5 to 8 Respondents/5 to 8 Defendants in brief:

The 5-8 respondents admit the averments in the petition and pray to appoint an advocate commissioner to measure the suit property.

5. Point for consideration:-

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

Heard both sides. On the side of petitioner Ex.P1 to Ex.P11 were marked and the respondents side no one document was marked.

6. Answer to the Point:-

6.1. The petitioner has filed this present petition for appointing an advocate commissioner to inspect the suit property to identify and note down the physical features of the suit property as per sale deeds dated 19.12.1990 and 18.09.1959. On the other hand the respondents object to the present petition by stating that there was a previous suit in respect of survey number 292/2 in OS number 13/2015 between 1st defendant and some others. In the said suit a conclusion was arrived stating that the suit property is within the survey number 292/2 and is the absolute property of the first respondent/1st defendant. And the survey number 292/2 was already surveyed as per order of the Honourable High Court in Writ petition. But admittedly the petitioner is not a party to the previous suit and whether the previous suit will operate as res-judicata is a matter for trial. Also the previous suit and the Honourable High court's order were all pertaining to the survey number 292/2 as stated by the 1st respondent himself. This current suit is filed in respect of the survey number 292/1.

6.2. On perusal of the written statement filed by the 1-3 respondents/defendants itself it can be seen that the defendants themselves state that there is no such property as identified by the petitioner in the site and claims that the suit property forms part of survey number 292/2. It is also stated by the petitioner that the 1st respondent has transferred by way of a fraudulent sale deed a

property not present at site. The survey numbers 292/2 and 292/1 appear to be adjacent to each other and there appears to be a boundary dispute between the parties to the suit. Also the 1-3 respondents in written statement para 12 deny the boundary, extent and identification of the suit property. Hence this court is of the conclusion that appointing a commissioner will help the court to arrive at a conclusion for the issue in hand.

6.3. Hence, in the light of the above discussions, this petition is allowed and this court appoints advocate S.Selvakathirvel J/o.M.Dharmar 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 the physical features of the suit property as per sale deeds dated 19.12.1990 and 18.09.1959 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.**

Petitioner side witness: Nil

Petitioner side documents:

Ex.P1	-	SLR for the suit property for S.No.292/1- Xerox copy
Ex.P2	24.10.1995	Inam Settlement deed- SRO copy
Ex.P3	19.12.1990	Sale deed for the suit property- Original
Ex.P4	04.08.2023	Survey No. 292/2 property is the document executed by the 1st defendant's father by treating the 1st defendant as a minor- SRO copy

Ex.P5	01.08.2023	Patta for S.No 292/1- Xerox copy
Ex.P6	-	FMB for S.No 292/1- Xerox copy
Ex.P7	06.07.2023	Memo issued by Tahsildar to petitioner/plaintiff- Xerox copy
Ex.P8	01.03.2023	Order in W.P(MD) No.5501/2021- Online copy
Ex.P9	14.07.2020	Chitta for S.No.292/2- True copy
Ex.P10	02.03.2010	Sale deed- SRO copy
Ex.P11	-	Photo and CD for the suit property

Respondent side witnesses and documents : Nil

**District Munsif,
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