

**In the Court of District Munsif, Mudukulathur**

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

**District Munsif,**

**Mudukulathur.**

**Monday the 02<sup>nd</sup> day of February 2026**

**I.A.No.02/2025**

**in**

**O.S.No.46/2023**

Malaisamy

..... Petitioner/Plaintiff

*/VS/*

1. Mayalagu

2. Panchtcharam

..... Respondents/Defendants

This petition came on 19.11.2025 before this court for a final hearing in the presence of Thiru.S.N.Yuvaraj Manikandan, Learned Counsel for the Petitioner/Plaintiff, Thiru.D.Rajasekar, Learned Counsel for Respondents/Defendants and upon hearing petitioner side 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 appointing an advocate commissioner and directing him to inspect the suit property to note down the physical features 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 properties originally belonged to petitioner/plaintiff's grandfather father Alagan. Alagan had three sons namely Kali, Poochi and Mookkuran. Item number 1 of the suit property,

measuring a total extent of 18 cents was equally divided among the above said legal heirs of Alagan. Mookkuran gave away his share in favour of the petitioner/plaintiff's father, Poochi. Hence, the plaintiff is entitled to 12 cents and the defendant who is the son of Kali is entitled to 6 Cents. Item number 2 of the suit property belonged to plaintiff's father, Poochi and his brother Mookkuran. Mookkuran relinquished his share in favor of plaintiff's father, and the plaintiff is in the possession of enjoyment of the item number 2 of the suit property. Hence it is necessary to appoint an advocate commissioner for inspecting the physical features and to prove that the suit properties and the defendant's properties are not the same. Hence, prays to allow the petition.

### **3. Brief averments of the Respondents/ Defendants in brief:**

The respondents deny the averments in the petition. Since the petitioner/plaintiff states that suit properties and the defendant's properties are not the same, the survey number for the properties must also differ. Patta is not a document of title. The petitioner/plaintiff cannot claim title on the basis of Patta. Since there is no encroachment as stated by the petitioner/plaintiff, there is no need to appoint an advocate commissioner and a commissioner cannot be appointed to prove possession and this petition is filed to drag on the proceedings and cause hardships to the respondents/defendants. Hence prays to dismiss the petition.

### **4. Point for consideration:-**

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

No documents filed on either side. The petition was reserved for orders by granting liberty for both side enquiry on or before 04.12.2025. Petitioner side enquiry heard. After giving sufficient opportunities, respondent counsel did not enquire the matter. Available records perused.

**5. Answer to the Point:-**

5.1. The case of the petitioner/plaintiff is that the suit properties originally belonged to petitioner/plaintiff's grandfather father Alagan. Alagan had three sons namely Kali, Poochi and Mookkuran. Item number 1 of the suit property, measuring a total extent of 18 cents was equally divided among the above said legal heirs of Alagan. Mookkuran gave away his share in favour of the petitioner/plaintiff's father, Poochi. Hence, the petitioner/plaintiff is entitled to 12 cents and the defendant who is the son of Kali is entitled to 6 Cents. Item number 2 of the suit property belonged to petitioners/plaintiff's father, Poochi and his brother Mookkuran. Mookkuran relinquished his share in favor of petitioners/plaintiff's father, and the petitioners/plaintiffs is in the possession of enjoyment of the item number 2 of the suit property and it is necessary to appoint a commissioner to inspect the physical features so as to prove that the suit properties and the defendant's property are not the same.

5.2. Whereas the respondents/defendants states that since the petitioners/plaintiffs states that suit properties and the defendant's properties are not the same, the survey number for the properties must also differ. Patta is not a document of title and a commissioner cannot be appointed to prove possession.

5.3. Heard both sides and perused available records. On perusal it can be seen that the suit properties originally belonged to the petitioners/plaintiffs and respondents/defendants grandfather and on perusal of pleadings filed on both sides, it can be seen that a partition took place and there is a dispute as to the extent and boundaries of the respective shares. The respondents/defendants also in para number 6 of their counter admit that the suit properties and the defendants properties might not be the same. Hence it is clear that there is a dispute as to boundary and identification of the suit properties. Hence this court is of the opinion that it is necessary to appoint an advocate commissioner to inspect the physical features and file a report and plan and it would assist the court in arriving at a proper conclusion for the issue on hand.

5.4. Hence, in the light of the above discussions, this petition is allowed and this court appoints advocate Tmt.Vindhiya, J/o.Thiru.Sivaramakrishnan as commissioner. This court directs her 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 02.03.2026.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 02<sup>nd</sup> day of February 2026.

**District Munsif,  
Mudukulathur.**

**Both sides witnesses and documents : Nil**

**District Munsif,  
Mudukulathur.**