

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI**PRESENT : Tmt.R.PREMI, B.A., L.L.B., (Hons).,**

District Munsif, Devakottai

Thursday, the 11th day of June, 2026**IA.No.01/2025****in****OS.No.93/2025**

T.Manoharan

...Petitioner

-Vs-

R.Muthuramalingam

...Respondent

This petition is coming before me for final disposal in the presence of Thiru.R.Veerappan learned advocate for the Petitioner, Thiru.S.Rajkumar learned advocate for the Respondent. Having heard of both side enquiry and upon perusing the documents, this court do hereby pronounce the following...

ORDER**The petition is filed under Order XXVI Rule 9 of CPC****1. The averments in the petition are as follows:**

The petitioner is the plaintiff in the main suit. The petitioner states that the property belongs to him and that he is in possession and enjoyment of the same. In the meanwhile, the respondent has encroached upon the property and has built construction. He is also trying to build further constructions on the property. Hence, in order to show that the respondent has encroached upon the suit property as shown in the rough sketch as ABCD, it becomes important to appoint an advocate Commissioner to inspect and measure the suit property with the

help of Taluk Head Surveyor. The petitioner states that if the petition is not allowed, he would be subject to irreparable loss and injury. Hence, he prays for the petition to be allowed.

2. Averments in the counter are as follows:

The respondent has denied the contention of the petition and has stated that the respondent is in possession and enjoyment of survey number 10/2A1 to an extent of 7 cents only and the plaintiff has falsely stated that the respondent has encroached upon the plaintiff's property. The respondent states that the petitioner has earlier filed a suit in OS.No.64/2009 against this respondent, along with certain other people and the same was not pressed after compromise. As per the said compromise, the respondent is in possession and enjoyment of 7 cents of land Only. The plaintiff has filed the suit only with an intent to cause disturbance to the respondent and prays for the petition to be dismissed.

3. Now the question to be decided is whether the petition has to be allowed or not?

Petition and counter perused. Enquiry heard on both sides. The petition has been filed to appoint an advocate commissioner to prove to the court that the defendant has encroached upon the suit property. On the other hand, the respondent has denied the contention of the petition and has stated that he is possession and enjoyment of land to an extent of 7 cent only. Both side averments perused. The suit has been filed by the petitioner seeking the relief of declaration and recovery of possession stating that the respondent has encroached upon the plaintiff's property. Since the question of encroachment has arisen and the suit has been filed for the relief of recovery of possession, it becomes important to know whether there is any encroachment in property or not. This is necessary for effective disposal of the case on merits without any

undue delay. Hence the case demands appointment of an advocate commissioner to identify the same. Hence in the interest of justice, this petition is allowed and advocate Mr.K.Periyasamy (MS.No.1799/2009) is appointed as an advocate commissioner. The advocate commissioner shall inspect and measure the suit property with the help of the Taluk Head Surveyor based on revenue records after giving notice to both the parties. The advocate commissioner shall also identify if there is any encroachment in the suit property, and by whom the said encroachment were made. The advocate commissioner shall also measure the survey number 10/2A1 and survey number 10/2A2 as well, if necessary to identify the encroachments, if any. The advocate commissioner's remuneration is fixed as ₹9000, which shall be paid by the petitioner. The advocate commissioner shall submit his sketch and report before the court on 30/06/2026. In the end, the petition is allowed. No order as to cost.

4. Decision

In the end, the petition is allowed. No order as to cost.

This Order was dictated by me, typed by the steno-typist, corrected by me and pronounced by me in the open court on 11th day of June 2026.

**District Munsif,
Devakottai.**

Annexures:

List of witnesses on the side of the Petitioner-Nil-

List of documents on the side of the Petitioner-Nil-

List of witnesses on the side of the Respondent-Nil-

List of documents on the side of the Respondent-Nil-

**District Munsif,
Devakottai.**