

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF
AT TIRUPPUR**

(J.O.CODE: 01953)

Present: A.VANITHA. M.S.W., L.L.B.,

Principal District Munsif, Tiruppur

Dated this 08th day of June 2026 Monday

I.A No.468 of 2022

in

O.S.No. 243/2022

K.R.Mani

...

Petitioner/Plaintiff

/Vs./

- 1. Gnanavel**
- 2. Rathinampal**
- 3. Kamaleshwari**
- 4. Ramathilagam**
- 5. Lakshmanan**
- 6. Mummoorthy**
- 7. The District Collector, Tiruppur.**
- 8. The Tahsildar, Tiruppur South Taluk**

... Respondents/Defendants

**This Petition has been coming 08.06.2026 this day for final
hearing before me in the presence of
Thiru.V.Kannan,B.Com.,B.L., Advocate for the
Petitioner/Plaintiff and Thiru.R.Sudharsan,B.A.,M.B.A.,
Advocate for the 1st and 3rd to 6th Respondents/Defendants and
Tmt.N.Devi,B.A.,B.L., Government Pleader Advocate for 7th and**

8th Respondents and 2nd Respondent died and on hearing both sides and upon perusing the documents, having stood over till this day for consideration, this court delivers the following :

ORDER

1. This petition has been filed Under Order 26 Rule 9 of CPC to appoint an advocate/commissioner to with the assistance of a qualified land surveyor and pass further orders.

THE BRIEF CRUX OF THE PETITION IS AS FOLLOWS:

2. The petitioner is the plaintiff in the suit and had filed the above suit against the defendants seeking declaration and mandatory injunction in respect of the suit property. The suit property situated in Survey No. 69/1, Muthanampalayam Village, Tiruppur South Taluk, originally measuring 6.45 acres, was purchased by the petitioner under Sale Deed Doc. No. 4596/2001 registered at the Tiruppur Joint-I Sub Registrar Office, to an extent of 0.40 cents with specified boundaries. At the time of purchase itself, there was a shortage in the total extent of land, which was well known to the 1st defendant. The defendants were entitled only to their respective share and were in possession accordingly.

3. Subsequently, the defendants created several fraudulent documents, including release deeds, settlement deeds,

partition deeds and sub-division records without proper measurements or correct boundaries, with an intention to encroach upon and grab my property. These documents are illegal and not binding upon the petitioner. Taking advantage of the wrongful sub-division records, the defendants trespassed into the petitioner property and erected a wire fence encroaching upon the petitioner land. When the Petitioner inspected the property on 10.05.2022, the defendants created unnecessary disputes and prevented my peaceful enjoyment of the property.

4. In order to prove the encroachment and illegal occupation committed by the defendants, it is necessary to appoint an Advocate Commissioner with the assistance of a qualified surveyor to measure the suit property, note down the physical features and boundaries, and file a detailed report along with a sketch before this Hon'ble Court. Hence, it is prayed that this Hon'ble Court may be pleased to appoint an Advocate Commissioner to inspect and measure the suit property with the help of a qualified surveyor and submit a detailed report and plan before this Hon'ble Court.

**THE BRIEF CRUX OF THE COUNTER STATEMENT OF R5
AND ADOPTED BY R1, R3 TO R6 IS AS FOLLOWS:**

5. The petition is false, frivolous and not maintainable either in law or on facts. The defendants have been in lawful possession and enjoyment of their property within fixed boundaries for several decades. The defendants state that the suit property originally belonged to their predecessors under Partition Deed No.17/1960 dated 29.12.1959, by which the northern half in S.F.No.69/1 measuring 3.20½ acres was allotted to their predecessor. Through subsequent Will, Release, Settlement and Partition Deeds, the defendants derived valid title and are in possession and enjoyment of the said property with separate patta and revenue records.

6. The plaintiff's property and the defendants' property are entirely different and situated in separate portions of S.F.No.69/1. The plaintiff purchased the southern portion through his vendors, whereas the defendants and their predecessors have been enjoying the northern portion from the year 1959.

7. The defendants had already fenced their property long prior to the plaintiff's purchase. The allegation that fencing was newly put up on 10.05.2022 is false and sought for dismissal of the application.

POINT OF DETERMINATION:

8. It is the case of the Petitioner that the Petitioner is the absolute owner of the suit property and the petitioner had filed the above suit against the respondents seeking declaration and mandatory injunction in respect of the suit property. According to the Petitioner the suit property is situated in Survey No. 69/1, Muthanampalayam Village, Tiruppur South Taluk, originally measuring 6.45 acres, was purchased by the petitioner under Sale Deed Doc. No. 4596/2001 registered at the Tiruppur Joint-I Sub Registrar Office, to an extent of 0.40 cents with specified boundaries and at the time of the purchase itself, there was a shortage in the total extent of land, and known to the 1st defendant. The defendants were entitled only to their respective share and were in possession accordingly.

9. Further plea of the petitioner is that due to wrongful sub-division records, the defendants trespassed into the petitioner property and erected a wire fence and constrained to file the application to prove the encroachment to appoint an Advocate Commissioner to note down the physical features and boundaries of the suit property.

10. On the other hand the respondents comes with the counter statement that the respondents have been in lawful possession and enjoyment of their property within fixed boundaries for several decades and the Petitioner and respondents property share different and sought for dismissal of the application.

11. On perusal of Petitioner record it is seen that the Petitioner have sought for the relief of declaration and Mandatory Injunction. Here in the application the Petitioner has sought for to note the boundaries of the suit property in order to prove the encroachment. It is a settled law that advocate commissioner cannot be appointed for collection of evidence.

12. Further it is pointed out that the suit is also not filed for demarcation of boundaries. The Petitioner/Plaintiff having sought relief of Mandatory Injunction as established his right over the property with specific boundaries and to note down the boundaries the advocate commissioner cannot be appointed and this court is not inclined to allow the petition.

SI.No.	ORDER
1.	As the result, the petition is dismissed.
2.	There is no order for costs.

Having dictated by me directly and computerized by steno typist directly and having corrected the Order is pronounced by me in the open court, of this the 08th day of June 2026.

Principal District Munsif,
Tiruppur.

Witness and documents on the side of the Petitioner : NIL

Witness and documents on the side of the Respondents: NIL

Principal District Munsif,
Tiruppur.