

**IN THE COURT OF THE DISTRICT MUNSIF, PALLADAM**

**Present:- Thiru. V. Kalidasan, B.Com., L.L.M.,  
District Munsif, Palladam.**

**Monday the 8<sup>th</sup> day of December 2025**

**I.A.No.337/2024**

**in**

**I.A.No.410/2014**

**in**

**O.S.No.287/2012**

1. Muthulakshmi
2. Periyasamy

... Petitioners/Defendant 1 and 2

/Vs/

1. Unnathal (died)
2. Jeyachandran
3. Eswaramoorthy

... Respondents/plaintiffs

... Respondents/Defendant No.3

This Petition is coming on 27.11.2025 for final hearing before me in the presence of Mr.R.Mahesan B.Sc.,B.L., Advocate for the Petitioners and Mr.A.Chinnasamy. B.A.,B.L., Advocate for the Respondents 1 and 2, and Mr.C.P.Subramaniam B.A., B.L., Advocate for the 3<sup>rd</sup> Respondent. Upon perusing the Petition, affidavit, counter statement and other connected materials on record and hearing the arguments of both sides and having stood over till this day for consideration, this court made the following...

**ORDER**

1. The petitioner filed this petition in I.A.No.337/2024 in I.A.No.410/2014 Under Order 26 Rule 10(3) of CPC, that to scrap the Commissioner's report and plan filed in IA.No.410/2014.

## **2. Brief averments of the petition:-**

i) The petitioners submit that the Advocate Commissioner was filed the false report with the support of surveyor plan before this Court in IA No. 410/2014. The petitioners already filed detailed objection for commission report before this Court and same may be treated as part and parcel of this affidavit. The Taluk Surveyor was not fixed the boundaries as per revenue records and his report was only in favour of the respondents/plaintiffs and totally against the petitioners. The Taluk Surveyor was wrongly fixed South east boundary of suit property and he was not identified any other boundary stone at southern side at the time of measurement of the suit properties. Further the Taluk Surveyor was also wrongly fixed south east boundary in nearly 12 feet west from original boundary. As per title deeds north south common road situated in between the petitioners and respondents 1 & 2 land. The respondents 1 & 2 land was 2 to 4 feet height from the common road. But the above respondents/plaintiffs were purchased their properties with false measurement. The petitioners' vendors were enjoyed their properties nearly 25 years from 20.10.1975 with specific boundaries as per title deeds. The respondents/ plaintiffs were not objected the petitioners vendors and petitioners title till filing this suit.

ii) The petitioners submits that Taluk Surveyor's plan is not genuine one. Surveyor not properly measured as per revenue survey stones. His property of southern and western boundary line length was wrongly measured and Surveyor also given false measurement and same was clearly mention in the objection. Further his land entire measurement was wrongly given by the surveyor, and Court commissioner filed his report with false surveyor plan. The petitioners' properties are situated at west of Common North-south road and respondents/plaintiffs' properties are situated at east of North-South Road as per the petitioners and respondents title deeds. But the respondents were unlawfully claimed some extent of his properties with the support of wrong

measurement in their title deeds. Hence, the petitioners filing this application to scrap the commission report filed by the court commissioner. Hence, prayed to allow this petition.

### **3. Brief averments of the counter statement filed by 2<sup>nd</sup> Respondent:-**

This 3<sup>rd</sup> respondent submits after filing of the suit the 3<sup>rd</sup> defendant filed an application in I.A.No.218 of 2013 to note down the physical features of the suit property and this Court is appointed K.Gopalakrishnan as Advocate commissioner. The 3<sup>rd</sup> defendant had not taken any steps to take out the commissioner for one year therefore this Court is closed the petition. Therefore, the respondents 1 and 2/plaintiffs filed an application in I.A.No.410 of 2014 for appointment of commissioner and the same commissioner K.Gopalakrishnan was appointed to measure the suit properties as per the document of title of both parties. The commissioner measured the suit property in the presence of both parties and their counsels as per the documents of titles of both parties and fix the boundaries correctly in the presence of both parties and their respective counsels. The measurement was taken accurately with digital machine which was accepted by both parties. The commissioner has filed detailed report mentioning all the relevant measurements and physical features of the suit property. The petitioners filed objections to the commissioner's report without any basis. The allegations filed in support of this application are all false. In the event this Court dissatisfied with the commissioner's report this Court direct the commissioner to file clarifications regarding objections filed by the petitioners or commissioner may be examine before the court to clarify the objections or reissue the warrant to the same commissioner again measure the property. Therefore, for the reasons mentioned in the affidavit in support of the petition the commissioner's report cannot be scraped. The suit is one being for recovery of possession of the portion of the property encroached by the petitioners the

commissioner's report to measurement of the property is absolutely necessary to decide the dispute between the parties. Hence, prayed to dismiss this petition.

**4. Points for consideration:**

Whether this petition will be allowed or not ?

5) The 3<sup>rd</sup> respondent/3rd defendant has endorsed no counter for this petition. Heard both sides. On the side of petitioners Ex.P1 to Ex.P3 marked. No documents marked on the side of respondents. Advocate Commissioner Mr.GopalaKrishnan examined as CW1 and Ex.C1 was marked. Mr.Dhanasekar examined as CW2 and Ex.X1 to Ex.X3 were marked.

**6. Answer to the point :**

Materials on records perused. It is seen from the records the suit in O.S. No.287/2012 has been filed for declaration and permanent injunction. This petition was filed by the petitioner Under Order 26 Rule 10(3) of CPC to scrap the commission report and plan filed by the Advocate commissioner in IA.410/2014.

7) The main contention of the petitioners the Advocate commissioner who filed a report and plan in IA.No.410/2014 has not property measured the suit property with the help of Taluk Surveyor and the Surveyor was wrongly fixed the boundaries as per revenue records and the Advocate commissioner filed a report in favour of the respondents 1 and 2 herein. There is a north-south common road situated between the petitioners and the respondents property. The said common road were enjoyed as per the title deeds the surveyor wrongly mentioned the measurement details petitioner in his plan and his measurement is

not par with the title deed of the petitioners. Therefore, the report of the Advocate commissioner is liable to scrap.

8) It is the contention of respondents 1 and 2, the Advocate commissioner and the taluk surveyor were measured the suit properties and fix the boundaries as per the documents of titles of both parties only in the presence of both sides counsels and parties. The measurement was taken accurately with the digital survey machine. If the court is not satisfied with the report of the Advocate commissioner, the court can direct the commissioner to clarify the same or to examine them as witness. In the present petition, both the Advocate commissioner and surveyor were examined as C.W.1 and C.W.2. Both the witnesses have clearly deposed before this court regarding the details of survey. Therefore, no necessity to scrap the Advocate commissioner's report and plan.

9) Considering the both side submission and on perusing the entire case records it is admitted by the both sides that a north-south cart track running between the petitioners' property and the respondents 1 and 2 property. It is also admitted by the respondents 1 and 2's that they purchased their properties with the specific boundary as east of common north-south cart track. On perusing the report and plan of Advocate commissioner and surveyor's plan it is stated that the surveyor has given two plans based on the actual possession of the parties and title deeds of the parties.

10) It is seen from the both plans of the taluk surveyor there is a difference in extent of the properties in their enjoyment and title deeds of the petitioners and the respondents. As per the surveyor's plan the north-south cart track which is situated in S.F.No.550/1B and S.F.No.551/2 are not situated as per the revenue records. Therefore, again measuring the properties by scraping the

Advocate commissioners report and plans will not serve no purpose. The objection already filed by the petitioners and the same will be considered during the trial and deciding this case. The respondents 1 and 2/plaintiffs shall alone in turn to prove their case, that they purchased the property beyond the western side of suit cart track and the present cart track is also situated within their land. The said facts have to be proved only by adducing oral and documentary evidence by the respondents 1 and 2/plaintiffs. Therefore, there is no necessity to scrap the Advocate commissioner's report and plans. Hence, this court is not inclined to allow this petition.

**In the result,** this petition is dismissed. No cost.

Dictated to Steno - Typist, and typed directly in computer and corrected & pronounced by me in open Court, on this 8<sup>th</sup> day of December 2025.

**DistrictMunsif,  
Palladam.**

**Appendix:-**

**Petitioners side witness-** No

**Respondents side witness-** No

**court witness-**

CW1 - Gopalakrishnan

CW2 - Dhanasekar

**Petitioners side documents:-**

Ex.P.1	20.10.1975	Certified copy of Sale deed infavour of Nachimuthu Nadar, executed by Power agent of Nithuanantham. Doc.No.2451/1975
Ex.P.2	21.11.1996	Sale deed infavour of Periyasamy, executed by Legal heirs of Nachimuthu Nadar.
Ex.P.3	21.11.1996	Sale deed infavour of Muthulakshmi, executed by Legal heirs of Nachimuthu Nadar.

**Witness Documents:-**

Ex.X.1	-	Field map of S.F.No.550 true copy
Ex.X.2	-	Field map of S.F.No.551 true copy
Ex.X.3	-	A – register for S.F.No.550 and S.F.No.551 true copy

**Court Documents:-**

Ex.C.1	-	Commissioner report, Commissioner plan and Surveyor plan.
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**DistrictMunsif,  
Palladam.**