

IN THE COURT OF THE FIRST ADDITIONAL DISTRICT JUDGE,
TIRUNELVELI.

PRESENT: Thiru. D. SELVAM, M.L.
1st Additional District Judge,
Tirunelveli.

Thursday, the 20th day of November 2025.

I.A. No. 03/2025 in O.S. No.109/2025

Balamani

... Petitioner/Plaintiff

// Versus //

Ulaganathan

...Respondent/3rd Defendant

This petition came up before this court on 12.11.2025 for a final hearing in the presence of Thiru. S.Iyyappan, Advocate for the petitioner and Thiru. R.Saravanan, Advocate for the Respondent, and upon hearing both sides' arguments and on perusing the records and having stood over till this date for consideration, this court delivers the following ...

ORDER

1. This petition has been filed under Order 26 Rule 9 and Section 151 of the C.P.C to appoint an advocate commissioner to measure the scheduled properties with the help of Taluk Surveyor and note down the physical features.

2. The brief averments in the petition are as follows:-

The petitioner is the plaintiff in the suit. The suit was filed for the relief of partition. Pending this case, the respondent attempted to construct new structures in

the schedule property and denied the right of the petitioner. So, the petitioner filed a complaint before the Perumalpuram Police Station on 07.05.2025. During the Police enquiry, the respondent stated that he would complete the construction in the 2nd-schedule property and rush the construction work. At this juncture, the appointment of a commissioner is necessary to measure the 2nd schedule property and note down the physical features for determining the possession of the 2nd schedule property. Hence, this petition is filed.

3. The brief averments in the counter are as follows:-

The petition is not maintainable either in law or on the facts. The respondent denied the allegations contained in the affidavit, except for the admitted facts. During the lifetime, the petitioner's father gave a property to the petitioner and her husband. As the same, some properties were allotted to the defendants orally. This respondent has not put up any construction. There is no title dispute over the property between the parties. Hence, the measurement and note down the physical features, possession. So, the appointment of the commissioner to measure the schedule property and note down the possession of the property is unacceptable. Hence, the petition may be dismissed with costs.

4. The Point for determination in the petition is:

Whether the petition can be allowed?

5. During the enquiry, no evidence was adduced and no documents were marked.

6. Answer to the Point: -

(i) Heard both sides. This court carefully perused the affidavit, counter, and case records.

(ii) The suit is filed for the relief of partition. The respondents contested the suit and denied the share to the petitioner. the petitioner took the specific allegation that the respondent has put up a construction in the 2nd schedule property and filed photos. Once the suit is filed in respect of the property, if any construction is made, the construction would be subject to the result of the suit.

(iii) At this stage, this court would like to appoint the commissioner to measure and note down the physical features of the property is avoid unnecessary disputes between the parties. Hence, this court would like to allow this petition by the interest of justice.

7. In the result,

(i) This petition is allowed. Mrs. S. Kanthimathi, Advocate, MS No: 2659/2010, J/o. Mr. M.S. Abuthahir, Advocate, Tirunelveli Bar Association is appointed as Advocate-commissioner for the purpose of the petition. The commissioner has to be visited, identified and measured the 2nd schedule property

with the assistance of qualified survivor and note down the physical features of the 2nd schedule property and submit the report before this court within 2 months.

(ii) This court fixed the remuneration of Rs. 15,000/-. The petitioner has deposited the amount into the court account on or before 04.12.2025. Then, this court directs the office to release half of the amount to the commissioner. The Advocate-commissioner is directed to complete the work within 2 months and submit the detailed report with plan. Call on 22.01.2026.

This order is directly dictated to the Steno-typist, typed by her in a computer, and corrected and pronounced by me in the open Court, on this the 20th day of November 2025.

1st Additional District Judge,
Tirunelveli.

The petitioners' side witnesses and documents: Nil
The respondents' side witnesses and documents: Nil

1st Additional District Judge,
Tirunelveli.

I Additional District Court,
Tirunelveli
DRAFT / FAIR ORDER
IA No.03/2025 in
OS No. 109/2025
Dated: 20.11.2025