

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

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

Friday, the 07th day of November 2025.

I.A. No. 03/2025 in O.S. No.110/2021

1. S. Uchimahali
2. V.Govindaraman
3. S.Kuthalam
4. R. Subbaiah

(1st to 4th petitioners for themselves and as the representative
of Yadhava Community People who worship Gopalamudram
Sri Arulmigu Kartkuvel Ayyanar Parivar Deities of
Gopalamudram, Vellanguli, Veeravanallur and Pattamadai)

... Petitioners/Plaintiffs

// Versus //

Kombu @ Chellammal

...Respondents/Defendants

This petition came up before this court on 28.10.2025 for a final hearing in the presence of Thiru. R.Ramakrishnan, Advocate for the petitioners and Thiru. S.Krishnaraj, 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 2nd petitioner is the 2nd plaintiff in the suit. The suit was filed for the relief of a declaration that the suit-schedule property and 24 Deities belong to the community of the plaintiffs, and the defendant should not interfere with the administration of the 24 Deities with a permanent injunction. At this stage, the plaintiff side, the PW-1, was examined and adjourned to further witness on 10.09.2025. The schedule property is used for the temple. At this juncture, the appointment of a commissioner is necessary to measure the schedule properties and note down the physical features for determining the possession of the temple and property is very much necessary to decide the case. 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. The appointment of the commissioner to measure the schedule property and note down the possession of the property is unacceptable. There is no title dispute over the property. During the cross-examination of the PW-1, he specifically deposed that the plaintiffs have no documents about the title of the property, and other constructions. At this stage, the petitioners tried to collect the evidence through the appointment of a commissioner. So, the petition is not maintainable, and it 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 a declaration and a permanent injunction against the defendant. The defendant contested the suit that she is the title holder, and she put up the temple, which has been used by the village people.

(iii) Upon the dispute, the trial commenced, and the plaintiff's side, PW-1 was examined. As per the evidence of the PW-1 and the pleadings, there is no dispute about the extent or boundary dispute in this case. But the petitioners are seeking the order to appoint a commissioner to note down the physical features and possession of the property. It is very pure for the collection of the evidence through the commissioner.

(iv) As supra, this court is not inclined to allow this application to appoint the commissioner to the local inspection to note down the physical features and possession of the property at the stage without dispute of the extent and survey number and boundaries by the interest of justice.

7. In the result, this petition is dismissed. No costs.

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 07th 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. 110/2021
Dated: 07.11.2025