

IN THE COURT OF THE DISTRICT MUNSIF, ARNI.

PRESENT: Miss. D.V.Koperundevi,B.com.,L.L.B.,(Hons)

DISTRICT MUNSIF,

DISTRICT MUNSIF COURT, ARNI.

Wednesday, the 12th day of November 2025.

I.A. No. 03/2023

in

O.S. No. 148/2014.

Purushothaman

... Petitioner/Plaintiff

/Vs/

1.Rasinkanth

2.Ravinkanth

...Respondents/Defendants

This petition came up before me for final hearing on 30.10.2025 in the presence of Thiru. K.Margabandu, Advocate for the Petitioner/Plaintiff, and Thiru. R.Saravanan, Advocate for the Respondents/Defendants, and upon hearing both sides enquiry and perusing the material records of this petition and having stood over for consideration till this day, this court delivers the following:-

ORDER

The petitioner filed this petition under Section 151 of CPC.

I The gist of the averments in the petition filed by the petitioner:

- 1 In the affidavit, the petitioner herein is the plaintiff in the main suit.
- 2 The petitioner have filed a petition for the appointment of an advocate commissioner in connection with the case.
- 3 It is very important to prove the petitioner side of the case by measuring the properties mentioned in the sale deed of the Respondents/Defendants, which was purchased from the petitioner father, and the properties mentioned in the suit, with the assistance of a qualified Head Surveyor appointed by the advocate commissioner. This will help to present the true facts.

- 4 It is necessary to reopen the case for discussion, as it is essential to measure the properties mentioned in the suit schedule and the properties mentioned in the sale deed of the Respondents/Defendants with the assistance of an advocate commissioner and a Head Surveyor.
- 5 Therefore, it is highly necessary and just that this Hon'ble Court grants permission to reopen the above case by appointing an advocate commissioner on his behalf.
- 6 Otherwise, the petitioner will suffer great hardship and loss.

II The averments in the counter filed by the 2nd respondent, and the same was adopted by 1st respondent:

- 1 The above petition, filed by the petitioner requesting to appoint an advocate commissioner to measure the suit property and the properties purchased by the respondents based on the sample plan filed with the suit with the help of a head surveyor, and to file a report with a plan detailing the extent and boundaries, is not legally or justly valid. It ought to be dismissed.
- 2 Other than the facts admitted in this counter, the petitioner is obligated to prove the rest fully.
- 3 In his affidavit, the petitioner has stated that he has filed the original suit seeking a permanent injunction order against the respondents from causing any disturbance to the plaintiff's enjoyment of the suit property, and that the suit property and other properties are the paternal properties of the petitioner's father, Lingappa Naidu, and that the petitioner's father had executed a settlement deed for the suit schedule property in the petitioner's name. After that, when the petitioner's father attempted to cancel the settlement, he filed an original suit no. 332/2006 in the Arni District Munsif Court, obtained a permanent injunction order stating that the suit property belongs to the petitioner, and that the total extent of the suit survey no. 282/7 was 1.94 acres,

and out of that, the petitioner's father had executed a settlement deed for the lower part of 0.97 cents in the petitioner's name, and that the map also shows the Blue Marked area as part of the suit, and that the petitioner's father had retained the remaining 0.97 cents on the upper part, and that the upper part of it, 0.09 cents, had been sold to a person named Raghu. It is shown in green color, and out of the 0.09 cents sold to Raghu, the remaining 0.88 cents only, and the well, well medu, tanks, and platform, and house in it, measuring 0.25 cents, were kept in the possession of the petitioner's father. The remaining 0.63 cents only belonged to the petitioner's father. The petitioners measured only 0.79 cents in the said survey number 282/7, but they have left out survey number 282/8. This is because survey number 282/7 is on the south side of Devikapuram Road's main road, and at that time the plaintiff was not in the village. The respondents have measured and taken possession of 0.79 cents in survey number 282/7. The respondents should take 0.79 cents from both survey number 282/7 and survey number 282/8. As per the court drawing, the respondents should be in possession of a rectangular or square shape, and it is shown in red color on the court drawing. It is a total of 1.39 cents for the boundary. The respondents have no connection with the suit case. On 01.06.2007, they purchased the land from the petitioner's father, which included survey number 282/5-0.60 cents, survey number 282/6-0.13 cents, survey number 282/7-1.04 acres, and survey number 282/8-0.05 acres, for a total of 1.39 acres. At the time of the purchase, the petitioner's father had prepared all the plots in the said survey numbers for sale. At that time, the respondents, by deceiving the petitioner's father and the registration department, obtained the sale deed by mentioning incorrect details in square feet and cents, and that the said sale deed is legally invalid. After the respondents purchased the land from the petitioner's father, the survey

numbers, properties, and other suit properties, the facts stated that if the measurements and extent of the 1.39 cents of land, which the defendants now hold by a sale deed, are measured with the help of a qualified Head surveyor and advocate commissioner, the true position will be revealed to the court, are all completely false. The petitioner has to prove them fully to this court.

- 4 The truth is that the above-mentioned respondents are brothers. It is requested that the written statement filed by the respondents in the original case be treated as a part of this counter.
- 5 The petitioner has filed the original case, falsely alleging that the plaintiff is enjoying the suit property peacefully against the respondents, and has sought a permanent injunction and costs to prevent the respondents or their people from interfering in any way.
- 6 The suit property and other properties belong to the petitioner/plaintiff's father, Lingappa Naidu. The said Lingappa Naidu had given the petitioner/plaintiff, his son, a total of 4.40 acres of land, comprising 0.20 acres in S.No.283/2, 1.25 acres in S.No.284/6, 0.62 acres in S.No.284/3, 0.80 acres in S.No.287/2, 0.56 acres in S.No.283/1, and 0.97 acres in S.No.282/7, in total 4.40 acres, along with a 1 1/4 share in Well 1 in S.No.284/6, a 1/6 share in Well 1 in S.No.287/2, and a half share in the common Well in S.No.282/7, through a deed of self-settlement dated 26.03.2003.
- 7 The total extent in S.No.282/7 is 1.94 acres. Of this, only 0.97 cents in S.No.282/7 is the case property filed by the petitioner/plaintiff. Subsequently, the plaintiff's father, Lingappa Naidu, cancelled the self-settlement deed he had given to his son on 26.03.2003 by executing a cancellation deed on 26.05.2006. Furthermore, the plaintiff did not file the said cancellation deed dated 26.05.2006 in this court.

- 8 Through the cancellation deed of the settlement dated 26.05.2006, the said Lingappa Naidu again has become the full owner of the properties that he had written to his son, the petitioner/plaintiff.
- 9 Subsequently, the plaintiff's father, Lingappa Naidu, executed a registered sale deed on 01.06.2007 for the remaining land of 1.39 acres, which was retained by him, comprising S.No. 282/5 measuring 0.60 acres, S.No. 282/6, measuring 0.13 acres, S.No. 282/7 measuring 1.04 acres, and S.No. 282/8 measuring 0.05 acres, in the middle of this, the land with a total area of 1.39 acres related to the aforementioned is bounded by the cart track (West), Purushothaman's land (South), Bangalore's land (East), and this land (North).
- 10 The defendants have been enjoying and using the said 1.39 acres of land for years to date. The defendants are the sole owners of that place. No one else has a right to that place other than the defendants. They have been paying the tax receipts for the said place properly.
- 11 The respondents have been subdividing and enjoying the western part of Survey No. 282/7 and Survey No. 282/7B. The revenue department has issued Patta No. 1318 in the name of the defendants for that place. However, the petitioner/plaintiff has specified 0.97 cents on the lower part of Survey No. 282/7 in the suit he has filed.
- 12 Furthermore, the map for Survey No. 282 that the petitioner/plaintiff has filed with the petition is an old, undivided map without a subdivision. He has deliberately failed to file the subdivided map.
- 13 The defendants, from the time they bought the place from the petitioner/plaintiff's father Lingappa Naidu, had the revenue department properly subdivide it and register it while he was still alive.
- 14 Due to a disagreement between the petitioner/plaintiff and his father, the petitioner/plaintiff wrote to his father has cancelled the settlement deed. The

sale deed executed by the petitioner / plaintiff's father to the respondents on the basis of the cancelled settlement deed is legally valid.

15 At the time of executing the sale deed, registering the deed, and subdividing the property for the respondents, the petitioner/plaintiff was with his father. However, he is falsely claiming that he was not in the village at the time of subdivision. In the sale deed executed by the petitioner/plaintiff's father for the respondents, the petitioner/plaintiff has signed as a witness. In this manner, the respondents purchased the properties from the petitioner/plaintiff's father, Lingappa Naidu. Therefore, the petitioner/plaintiff is well aware of all the facts related to the transactions between his father and the respondents. However, the petitioner/plaintiff is currently acting as if he knows nothing.

16 Furthermore, the petitioner/plaintiff is well aware of the subdivision and the respondents' property. However, he has filed a case deliberately without mentioning the new subdivision.

17 Furthermore, the petitioner/plaintiff has to fully prove that in Survey No. 282/7, out of 1.94 cents, 0.97 cents were sold to Raghu, and out of the remaining 0.88 cents, only 0.63 cents belonged to Lingappa Naidu, excluding the 0.25 cents he retained. The petitioner/plaintiff has not submitted any documents to the court for this.

18 The petitioner/plaintiff, who was well aware of the above details, remained silent during his father's lifetime and is now making a false allegation deliberately.

19 The respondents are not aware of the original suit number 332/2006 mentioned by the plaintiff. The respondents were not parties in the said case, so the judgment in the aforementioned suit will not bind the respondents. The said petitioner/plaintiff came to know about them only after seeing the copy of the plaint filed along with the suit. The said original case No. 332/2006 was

decided on 17.09.2007. However, before the conclusion of that case, the plaintiff's father had sold the property to the respondents.

20 Furthermore, the said petitioner has filed this petition after a great delay after the investigations in the original case were completed. This is not acceptable, and through this petition, the petitioner is trying to mislead the original case in a wrong way.

21 The said petitioner/plaintiff has never enjoyed the property of the respondents at any time.

22 Therefore, it is requested that this petition, filed by the petitioner/plaintiff on false grounds, be dismissed with costs to the respondents.

23 The respondent hereby affirms before this court that if any facts that should have been mentioned in this counter have been omitted due to oversight, an additional counter will be filed.

III Points:

1. Whether the petition under Section 151 of CPC to be allowed or not?

IV Points for Consideration:

Heard on both sides. Records have been perused.

1. It is true that the power under Section 151 CPC is a discretionary and inherent power vested in the Court to meet the ends of justice or to prevent abuse of process. However, such power must be exercised judiciously and sparingly, and only when the circumstances genuinely warrant such an intervention.
2. In the present case, the petitioner seeks to reopen the case for the limited purpose of appointing an Advocate Commissioner. The main suit is one for permanent injunction, and the petitioner had already completed his side of evidence. The matter appears to be at the stage of the respondents' evidence or final arguments. The petitioner has not provided sufficient explanation for why

such a request was not made earlier during the trial stage when ample opportunity existed to seek local inspection or measurement.

3. Further, the dispute in this case revolves around title, possession, and boundaries. The respondents claim title through a registered sale deed, and their possession is supported by revenue records. The petitioner's right is based on an earlier settlement deed that was allegedly cancelled by his father. These issues can be adjudicated based on the documentary evidence and oral testimony already on record.
4. It is well settled that the appointment of an Advocate Commissioner is not intended to collect evidence or to fill in gaps in the petitioner's case. When the petition is filed after completion of evidence and without adequate justification, it is seen as a belated attempt to reopen the proceedings. The Hon'ble Courts have repeatedly held that reopening a case merely to secure an advantage or delay proceedings does not serve the ends of justice.
5. The petitioner's apprehension that non-measurement of the property would cause hardship can be addressed during final arguments based on the evidence already adduced.
6. This court find to give opportunity and fair justice to the petitioner thusby, to reopen the case.

V Result:

In view of the foregoing discussion, this Court is of the opinion that the petition filed under Section 151 CPC to reopen the case and appoint an Advocate Commissioner is allowed. Accordingly, the petition is allowed. No order as to costs.

Dictated to Steno Typist, and computerized by her directly, corrected and pronounced by me in the open Court, on the 12th day of November 2025.

**District Munsif
Arni**

List of documents & witnesses: N I L

**District Munsif
Arni**