

IN THE COURT OF DISTRICT MUNSIF, LALGUDI

Present: Thiru.S.Pragatheeshwaran, M.A.,B.L.,
Principal District Munsif,
Lalgudi.

Tuesday the 02th day of June 2026

IA.No.06/2026 in OS.No.389/2022

Ulaganathan

....Petitioner/1st Defendant

VS

1) Kalarani

2) Shanthi

....Respondents/Plaintiffs

This petition has come up for final hearing on 02.06.2026 before this court in the presence of Advocate Mr.V.Rajasekaran learned counsel of these Petitioner and in the presence of Advocate Mr.S.R.Senthilkumar learned counsel of this 1, 2nd Respondents, upon perusal of material records and having stood over for consideration till this day, this court delivers the following.....

ORDER

Petition filed Under Order 26 Rule 9 of CPC

1) The petitioner/1st defendant has filed this petition under Order 26 Rule 9 readwith 151 of CPC to appoint an Advocate commissioner and to inspect the suit I – III item of suit properties and to notedown the physical features of the suit property.

2)The petitioner has submitted that the petitioner alone is in the possession and enjoyment over the 1st suit property and family of the 2nd plaintiff is in possession of the 2nd item of the suit property. The petitioner has been using the 3rd item of the suit property. Hence, this petition to notedown the physical features and inspect the suit property by Advocate commissioner.

3) On the other hand, the Respondent/Plaintiffs in their counter had denied the averments of the petition and submitted that the plaintiffs were in the peaceful possession and enjoyment over the suit properties. Now, the petitioner has

filed this petition very belatedly at the stage of defendant side evidence. Moreover, after the cross examination of Pw1 and Pw2 in order to nothing but to collect evidence. Advocate commissioner cannot be appointed to find out factum of possession. Hence, prays to dismiss the petition.

3) Now the question before this court that whether this petition is liable to be allowed or not?

4) Upon perusal of rival submissions and documents marked through either side, this court has found that this case is filed by the plaintiff for the relief of Permanent injunction against the defendants and the main suit is pending at the stage of defendant side evidence.

5) At this juncture, the petitioner/defendants has come up with this present petition at the very belated stage. On perusal of records, an IA.No.02/2022 was filed by the respondent/plaintiff for interim injunction against the petitioner, the same is allowed by this court on 26.04.2024. Further this court has found that it is trite-law, in a case of seeking a relief of permanent injunction, the factum of possession has to be established by the party who asserts the same. In this case on hand, the petitioner/defendant has asserted that they are in the possession of the suit property. Having regard to the said contention this court found that the factum of possession has to be established exclusively by the petitioner.

6) Further, it is trite-law, in order to prove the factum of possession the Advocate commissioner cannot be appointed to collect evidence as in the case of permanent injunction. Therefore, considering the above factual aspects and legal propositions, on the backdrop that already an interim injunction is in force, this court has concluded that the petitioner is not entitled to collect evidence to prove the factum of evidence through appointment of Advocate Commissioner. Hence, this court is not inclined to allow this petition in the interest of justice.

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

This order dictated by me to the steno-typist typed by him, corrected and pronounced by me in the open court this 02th day of June 2026.

District Munsif,
Lalgudi.

Petitioners side evidence :

Ex No.	Date	Particulars	Remarks
Ex.P1	-	Photo copy	Original
Ex.P2	-	House tax receipts counts No.4	Original
Ex.P3	-	Electricity Connection bill	Xerox copy
Ex.P4	-	Cds and Photos	Original
Ex.P5	-	Natham land plan Adangal register	Original
Ex.P6	-	compromise effected receipt	Xerox copy
Ex.P7	-	Action dropped receipt	Xerox copy
Ex.P8	-	Compliant filed by Kalarani in the Police station	Certified copy

Respondents side evidence:

Ex No.	Date	Particulars	Remarks
Ex.R1	-	My Aadhaar card	Compared with Original
Ex.R2	-	My Family card	Compared with Original

Ex.R3	-	My Voter ID	Compared with Original
Ex.R4	-	2 nd plaintiff Aadhaar card	Compared with Original
Ex.R5	-	Patta in the name of the Plaintiff's father relating to the 1st item of the suit property	Certified copy
Ex.R6	-	Patta in the name of the Plaintiff's father relating to the 2nd item of the suit property	Certified copy
Ex.R7	-	Patta in the name of the Plaintiff's father relating to the 3rd item of the suit property	Certified copy
Ex.R8	15.06.1994	Will Document (99/94)	Certified copy
Ex.R9	27.03.1999	House tax Receipt	Original
Ex.R10	30.03.2015	Miscellaneous Receipt	Original
Ex.R11	-	Electricity Connection Card	Original
Ex.R12	19.12.2018	Settlement Deed (Doc No.4540/18)	Computer copy
Ex.R13	-	Patta stands in the name of Plaintiffs relating to the 1st item of the suit property	Certified copy
Ex.R14	-	Patta stands in the name of Plaintiffs relating to the 2nd item of the suit property	Certified copy
Ex.R15	-	Patta stands in the name of Plaintiffs relating to the 3rd item of the suit property	Certified copy
Ex.R16	29.03.2022	House tax Receipt	Original
Ex.R17	31.03.2022	House tax Receipt	Original
Ex.R18	31.03.2022	Water tax Receipt	Original
Ex.R19	11.11.2019	Electricity Bill Receipt	Original
Ex.R20	-	Photo copy of the suit property	Original
Ex.R21	-	CD	Original

Ex.R22	15.10.2022	Compliant filed in the Police station	Hand copy
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