

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Tmt. **V. Vannamalar**, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Tuesday, the 17th day of December 2024

I.A.No.4/2024

in

O.S.No.28/2021

Asha Vijayaraghavan

.....Petitioner/1st Defendant

- Vs -

K.Sasi Kumar

.....Respondent/Plaintiff

This petition came up for hearing on 08.11.2024, in the presence of Mr.N.R.Anantharamakrishnan, Mr.V.Sathishkumar, learned counsels for the Petitioner and Mr.N.R.Gopaalan, learned counsel for the Respondent. Upon hearing the arguments of both sides and on perusal of the material case records and having stood over for consideration before this court till this day, this court delivers the following

ORDER

This petition has been filed by the petitioner/1st defendant under Order 26 Rule 9 R/W Section 151 of Civil Procedure Code for appointment of an Advocate commissioner to inspect the suit properties and the adjoining petitioner's properties with the assistance of the Taluk Surveyor and to measure, survey and identify all the properties and demarcate their boundaries and ridges and to file a detailed report with rough sketch.

2. Brief averments of the affidavit filed by the petitioner are as follows:

2.1. The petitioner is the 1st defendant in the suit. The petitioner states that the respondent who is the plaintiff in the suit has filed the suit for a relief of permanent injunction as against the defendants in the suit with respect to the suit properties which are agricultural lands. The petitioner states that the suit A schedule mentioned

property are the agricultural lands conveyed by the petitioner in favour of the respondent/plaintiff and the suit B schedule mentioned property is a land in S.No.265/10 measuring to an extent of 28 cents. The petitioner states that she and her husband Vijayaragavan have purchased extensive lands in Neduvarambakkam village from the respondent's families jointly as well as separately and are in exclusive possession and enjoyment of the same as a rightful owner of the same by paying kist and other charges to the concerned authorities with respect to the said properties. The petitioner states that she had conveyed the suit properties to the respondent/plaintiff and that there is no dispute on the said conveyance. The petitioner denies the averment made in the plaint relating to her alleged attempt to disturb the respondent's enjoyment of the suit properties as false. The petitioner states that she owns extensive lands at Neduvarambakkam village and few of her lands are located on either sides of the suit properties.

2.2. The petitioner further states that the respondent/plaintiff while enjoying his properties has frequently shifted the ridges between the suit properties and the petitioners adjoining properties and hence the petitioner threatened the respondent that he would take legal action against the said act of the respondent/plaintiff then immediately after such threat the respondent/plaintiff has filed the suit to cover up his wrong act. The petitioner states that he had never attempted to disturb the respondent's enjoyment of the suit properties but that the respondent is frequently shifting the ridges between the suit properties and the petitioner's adjoining properties. Hence the petitioner has filed this petition for appointment of an Advocate Commissioner along with the assistance of the Taluk surveyor to measure, survey and identify the suit properties and the adjoining petitioner's properties and to demarcate the boundaries and ridges between the said properties. The petitioner states that such appointment of an Advocate Commissioner will reduce the scope of oral evidence in the suit and it will also resolve the issues between the parties. Further the petitioner states that the report of the Advocate Commissioner will narrow down the scope of

oral evidence enormously and it will also pave way for the suit to be amicably disposed off on the basis of the surveyor report. Hence this petition.

3. Brief averments of the counter filed by the Respondent are as follows:

The respondent is the plaintiff in the suit. The respondent denies the averment made by the petitioner in his affidavit that he is shifting the ridges existing between the suit property and the adjoining properties of the petitioner as false. At the same time, the respondent states no objection in the appointment of an Advocate Commissioner along with surveyor to measure the suit properties. The respondent further states that to bring the recurring boundary dispute between the petitioner and the respondent to an end, the Advocate Commissioner must be appointed along with a surveyor of the Revenue Department not only to identify and demarcate the suit properties but also to identify and demarcate the adjoining properties of the respondent.

4. Neither the petitioner nor the respondent has placed any oral or documentary evidence before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not.

5. Heard both sides. Records Perused.

6. On careful consideration of the above rival submissions and arguments presented by both the parties this court finds that the petitioner is the 1st defendant in the suit and the respondent is the plaintiff in the suit and the plaintiff has filed the suit as against the defendants in the suit for a relief of permanent injunction with respect to the suit properties. Both the petitioner and the respondent admit that there is a boundary dispute that exists between their lands. Petitioner contends that the respondent frequently shifts the ridges between the suit properties and the adjoining properties of the petitioner. The respondent also admits that there is a boundary dispute between his properties and the adjoining petitioners properties. Hence this court considers that to resolve the above dispute between the parties, appointment of an Advocate Commissioner is necessary to find out and to report on the site condition

of the properties. Report of the Advocate Commissioner becomes necessary to this court as to decide on the matter in dispute and the same may minimize the efforts to gather up evidence to adjudicate in this case. Hence this court is inclined to allow this petition.

7. In the result, this petition is allowed. Advocate Mr. S. Gopi, is appointed as an Advocate Commissioner and he is directed to inspect the suit A and B schedule properties and to measure the same along with the adjoining properties of the petitioner with the help of Village Administrative Officer and Taluk surveyor on the basis of the revenue records and the sketch filed by the petitioner and the sale deeds of the respective parties, after giving due notice to both the parties and to identify, demarcate and fix the boundaries of the said properties and to file a detailed report with plan on or before 07.02.2025. His remuneration is fixed at Rs.10,000/- and both the petitioner and the respondent are hereby directed to equally share and pay the same to the Advocate commissioner directly. For Advocate Commissioner's report and plan call on 07.02.2025.

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 17th day of December 2024.

**DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.4/2024
O.S.No.28/2021
Date:17.12.2024
DMC,PNI