

IN THE COURT OF DISTRICT MUNSIF AT AMBATTUR.

PRESENT: TMT.J.MADHUMITHA, B.A.B.L(HONS.), L.L.M.,  
DISTRICT MUNSIF, AMBATTUR.

Tuesday, 03<sup>rd</sup> day of June 2025.

**INTERLOCUTORY APPLICATION NO.6 OF 2023**

**IN**

**ORIGINAL SUIT NO. 204 OF 2014**

**CNR.No.TNTR22 – 000243 – 2014**

Mrs.Shanthi Bai

....Petitioner/ Plaintiff

Versus

Mrs.Chellammal

.....Respondent/Defendant

This petition having come on 03.06.2025 before me for final hearing in the presence of Mr.P.S.Boopathi learned counsel for the Petitioner/Plaintiff, Shri.M.Jagatheesh, S.Durgadevi and K.S.Nithyapriya, learned counsel for the Respondent/ Defendant, upon hearing the arguments made by the learned counsel for the petitioner and the respondent and perusal of the records, having stood over for consideration till this day, this Court delivers the following:

**ORDER**

1. Petition filed Under order 26 Rule 9 CPC seeking to appoint Advocate Commissioner to make local inspection and to note down the physical features of the suit properties with the help of Taluk surveyor.

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

The Petitioner/Plaintiff have filed the main suit for mandatory and permanent injunction in the suit property, and that, the Respondent has encroached the eastern

side of Plaintiff property upto 120 sq.ft. Hence this petition to appoint Advocate Commissioner with help of surveyor to note down the physical features.

**3. The averments in the Counter filed by Respondent, in brief are as follows :**

The Respondent has averred that the petitioner's husband who are residing on the western side of the property having with manipulated documents was making attempt to trespass into the respondent's property. Hence this respondent approached this Hon'ble Court and filed suit in O.S. No.259/2013 which was contested and suit was decreed in Respondent's favour even prior to decree of the suit this respondent got interim injunction and complete the compound wall. After the matter was posted trial for a long time petitioner deliberately is dragging on the proceedings and finally unnecessarily by wasting the precious times of this Hon'ble Court by filing this petition. This respondent submit that as already regarding this issue this Hon'ble Court settled this issue in O.S. No.259/2013. Hence this petition to be dismissed.

4. No documents marked on the side of Petitioners. No documents marked on the side of the Respondents.

5. The point for consideration is whether this petition can be allowed or not as against the Respondent?

**6. Discussion :**

On due perusal of the both side contention, this court finds that the Petitioners /Plaintiffs have come up with this application seeking to to appoint Advocate Commissioner to make local inspection and to note down the physical features. It is observed from the records submitted before this court that the main suit is for mandatory injunction and permanent injunction, and that a dispute with regard to boundaries has arouse.

7. Further from the reported Judgment of Hon'ble Apex Court in 2016 (3) MWN 527, 2014 (1) MWN 268, 2006 (5) CTC 178, it is understood that the object of the local investigation under Order 26, Rule 9, is not to collect evidence. But, if there is any doubt about the area of the land, boundaries, identification or location of an object then local investigation is necessary. In the instant case, there is a question of dispute over the boundaries in the eastern portion of the Plaintiff property.

8. Further, this Court deems just to leave no stones unturned in this case, with regard to the prayer sought for in the main suit to attain substantial justice and to avoid multiplicity of proceedings. In this regard, Hon'ble High Court of Madras has held in **Meenammal v. K.Subramani**, reported in 2019 SCC ONLINE MAD 21018, in para No.10 that,

**"10. When the suit is filed by the plaintiffs seeking the relief of recovery of possession and Mandatory injunction, the measurement of the suit property by way of Commissioner is very much essential. When the plaintiff has furnished the clear picture about the extent of his suit property with four boundaries and the relief is also sought by him is one for declaration injunction and mandatory injunction, the appointment of the Commissioner to measure the same with the help of firka surveyor is very much reasonable."**

On application of the above Judgment to the present case, as the Plaintiff seeks Declaration and permanent injunction contending that the suit properties absolutely belongs to the Petitioners, hence, this court deems just in appointing the Advocate Commissioner to inspect the property and note down the physical features, with the help of the taluk surveyor, which would minimise the oral evidence in main suit, and

that such appointment would not cause prejudice to the Respondent, even if she has been decreed favourably in O.S.259/2013.

9. Hence this court deems just in appointing a Advocate commissioner to inspect the property and note down the physical features, with the help of surveyor, with reference to the documents of both the parties and the revenue records. In the result, this petition is allowed and Advocate Mr.S.Sivakumar is appointed as Advocate/Commissioner, and is ordered to inspect the suit properties along with the surveyor to make local inspection and to note down the physical features of the suit properties and to measure property with reference to the documents of both the parties and the revenue records. The Petitioner is directed to pay the Advocate/Commissioner remuneration of Rs.10,000/- directly to the Advocate/Commissioner. The Advocate /Commissioner is directed to make the local inspection and file the Advocate/Commissioner Report and plan by 05.08.2025.

Typed by me in my laptop, corrections were carried out by me, and the order was pronounced by me in the open court this is the 03<sup>rd</sup> day of June 2025.

**Sd/-J.MADHUMITHA**  
**District Munsif,**  
**Ambattur.**

**1).List of Petitioner side Witnesses: NIL**

**2). List of Petitioner side Exhibits: NIL**

**3).List of Respondents side Witnesses: NIL**

**4). List of Respondents side Exhibits: NIL**

**Sd/-J.MADHUMITHA  
District Munsif,  
Ambattur.**