

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE, SHENCOTTAH**

**PRESENT : THIRU.M.SUNIL RAJA, B.A.M.L.,
DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, SHENCOTTAH**

Dated this the 19th day of March 2025

I.A.No.08 of 2024

in

O.S.No.118 of 2014

Sudalaiyandi

....Petitioner/Plaintiff

Vs

1. Mookan (Died)

2. Executive Officer,

Town Panchayat,

Tekasi Taluk

3. State Through the District Collector,

Tenkasi District

....Respondents/Defendants

These petition came up before me for final hearing in the presence of Tr.M.Kanthasamy the Learned counsel for the Petitioner/Plaintiff and Tr.S.Muthukumarasamy the Learned counsel for the 2nd Respondent and Tr.K.Muthukumarasamy the Learned counsel for the 3rd Respondent and counter is not filed their side. On hearing both sides, upon perusing the material records, documents and having stood over for consideration till date this court delivers the following....

Order

This petition has been filed seeking permission to file an objection regarding the report and sketch submitted by the court commissioner in the original Suit.

1. Summary of the Petition:

- 1.1. The petitioner claims that the original Suit pertains to the declaration of second schedule property and seeks a permanent injunction. In this case, the court commissioner was appointed, and a notice was received stating that the commissioner would inspect the property. However, the petitioner could not attend due to medical treatment. Subsequently, the petitioner could not file an objection to the commissioner's report and sketch by the due date of 04.04.2024, as he was working in Kerala. Therefore, the petitioner requests permission to file an objection now, despite the delay.
2. The respondents side counter is not filed.
3. The case documents were reviewed, and both sides were heard. The original Suit was filed in 2014. An interim petition No. 613/2014 was filed on 23.12.2014, seeking the appointment of a court commissioner. The commissioner was appointed on 23.02.2017. The case was then adjourned for the commissioner's report and sketch, which were not submitted for several years.
- 3.1. After about five years, on 07.12.2012, the commissioner appeared in court and stated that the sub-division number of the property was not mentioned, making it impossible to measure the property. Consequently, an interim petition No. 3/2023 was filed on 05.01.2013 to amend the

case, which was allowed on 06.07.2023. The amended petition was filed, and the commissioner was ordered to inspect the property based on the revised survey number and submit a report and sketch.

- 3.2. Finally, on 06.12.2023, the commissioner submitted his report and sketch to the court. The case was adjourned from 20.12.2023 to 29.02.2024 for the payment of additional remuneration of commissioner, which was paid by the petitioner on 29.02.2024. On 07.03.2024, the commissioner's report and sketch were taken on record, and since no objections were filed, the petition seeking the commissioner's appointment was closed.
- 3.3. Subsequently, on 03.10.2024, issues were framed, and the case was listed for trial on 24.10.2024. The trial was adjourned as the petitioner was not ready, and finally, on 14.11.2024, the petitioner filed his proof affidavit, marking documents Ex.P1 to Ex.P8. On the same day, the petitioner filed this petition seeking permission to file an objection to the commissioner's report and sketch.
- 3.4. The court commissioner had given notice to the parties before inspecting the property, and the petitioner received this notice. However, the petitioner did not assist the commissioner or attend the inspection. Despite being given ample opportunity to file an objection to the commissioner's report and sketch, the petitioner did not do so. Allowing this petition at this stage, after the trial has commenced, would disrupt the trial proceedings.
- 3.5. Considering the case proceedings and the petitioner's conduct, this case has been pending for 11 years, with various court orders and actions leading to the submission of the commissioner's report and sketch. The

petitioner's failure to file an objection in a timely manner and the filing of this petition after the trial has commenced appear to be intended to delay the trial. Therefore, based on the above considerations, this petition is not allowed and is dismissed.

Finally, this petition is dismissed.

This orders are transcribed via speech-to-text on my computer, edited and corrected by me, and pronounced in open court today, the 19th of March 2025.

District Munsif Cum
Judicial Magistrate, Shencottah

1. Petitioner/Plaintiff side witness and Documents:NIL

2. Respondents/Defendants side witness and Documents:NIL

District Munsif Cum
Judicial Magistrate, Shencottah