

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
THIRUVARUR.**

**PRESENT : Tmt. P. Selva Muthu Kumari, M.L.,
Principal District Judge,
Thiruvavarur.**

Monday, this the 14th day of July 2025.

I. A. No. 3/2024 in O. S. No. 54/2024

Rajeswari

... Petitioner/Plaintiff.

/.Vs./

1. Santha
2. The Thasildar, Nannilam
3. The Tamil Nadu State Government,
Through District Principal Representative,
The District Collector, Thiruvavarur. ... Respondents/ Defendants.

- - - - -

This Interim Application came up before this Court for final hearing on 14.07.2025 in the presence of Thiru : N. Sankaran, Learned Counsels for the Petitioner/Plaintiff, Thiru : R. Muthaiyan, Learned Counsel for the 1st Respondent/1st defendant, Thiru : D. Manivannan, Government Pleader for the 2, 3 Respondents/2,3 Defendants, upon hearing the arguments of both sides, upon perusing the entire case records and having stood over for consideration till this day, this Court delivered the following...

ORDER

This Application is filed by the Petitioner/Plaintiff under Order 26 Rule 9 and sec. 151 of Civil Procedure Code had prayed this Court for the appointment of

Advocate Commissioner who has to inspect the spot and has to file detailed Report with regard to the physical features of the petition mentioned property with the help of Surveyor along with Rough Sketch and justice be rendered.

2. The details of the petition averments in a nutshell is as follows:-

The suit is filed by the Petitioner/Plaintiff and is for Declaration of suit schedule property and Permanent Injunction. The suit property was Natham and later changed as Ryotwari manai by D2 and D3. The Municipal Tax is in the name of Plaintiff's father-in-law. The suit property has to be inspected by Advocate Commissioner along with the help of Surveyor along with S.Nos. 303/1 to 15, 303/14, S.No. 219, 219/12B, 303/14 and physical features therein and file Advocate Commissioner's report and plan and Rough sketch therein. Hence this petition.

3. The details of Counter averments filed by the 1st Respondent/1st defendant is as follows :-

The Petitioner/Plaintiff is an attempt to grab temple property, as Bank will not issue loan for Temple property, has entered into self-created/Serving documents to achieve his goal with bad intention has filed this petition to collect evidence, which is not permissible. The petition has to be dismissed with costs of this respondent.

4. The details of Written Statement to be treated as Counter averments filed by the 2nd Respondent/2nd defendant and adopted by 3rd Respondent/3rd defendant here, as per memo filed is as follows :-

The respondents are ready to abide by the Order of the Court. These

respondents are unnecessary parties herein. The petition has to be dismissed with costs of these respondents.

5. There is no oral evidence and documentary evidence let in by both sides.

6. **Points for consideration arises in this Interlocutory application are :-**

1. Whether this petition is to be allowed or not ?

7. **On the Point :-**

7.1. Heard both sides arguments. Records perused.

7.2. On Petitioner's side, the following citations were furnished :

1. In Second Appeal No. 995/1993 in the case of Vaithinattar and another vs Sakkubai Ammal, decided on 16.06.2004, wherein the Hon'ble High Court of Judicature at Madras has observed that,

“ . . . It is glaring that it is the case wherein both the properties belonging to the Plaintiff and the defendants and the adjoining lands to these properties particularly surrounding the location of the suit property measuring 0.05 cents have to be measured with the assistance of a qualified surveyor and with the help of the Field Measurement Book and report and sketch obtained, besides examining the Commissioner or local revenue authority.

In result,

(ii) the case is remanded to the Trial Court for re-consideration in appointing a Commissioner and measuring the suit property and the other properties surrounded by the suit property so as to ascertain the facts regarding the possession

of the extent of lands by parties and to file a report with sketch and the Trial Court shall decide on such additional evidence placed on record also with further opportunity for the learned counsel for both to be heard and to decide the dispute on merits and in accordance with law ; . . .”

2. In Civil Appeal No. 4435/2008 in the case of Haryana Waqf Board .Vs. Shanti Sarup & Ors, decided on 16.07.2008, wherein the Hon’ble Supreme Court of India had observed that,

“ . . . It was appropriate for the Court to direct the investigation by appointing a Local Commissioner under Order 26 Rule 9 of the CPC. . . .”

7.3. The petition mentioned/Suit property is as follows :

" . . . திருவாரூர் மாவட்டம், திருவாரூர் பதிவு மாவட்டம், பேரளம் சார் பதிவுகம், நன்னிலம்

வட்டம், பேரளம் வருவாய் கிராமம், இஞ்சிக்குடி தெற்குத்தெரு

புல எண் 303/15 பழைய புல எண் 218/1 மனை 980 சமீ இதிலுள்ள ஆர்.சி.சி. வீடு, மின்சாரம்,

சுகாதாரம், இதர இனங்கள் உட்பட, க.எண். 18A/22 . . .”

7.4. It is seen that appointment of Advocate Commissioner, in this case is necessary to “elucidate any matter in dispute”. Mrs. A. Premalatha, M.S. No. 427/2015 is appointed as Advocate Commissioner, with direction to inspect the suit property, surrounding S.No. as mentioned in the petition, along with qualified Surveyor, note down the physical features and petition mentioned purpose, after giving notice to concerned parties and report with Plan and Sketch. Advocate

Commissioner's Fees is fixed at Rs. 10,000/- to be paid directly to the Advocate Commissioner on or before 22.07.2025. Advocate Commissioner Report and Plan by 11.08.2025. This point is found in favour of the petitioner and is answered accordingly.

8. In the result, this petition is allowed and Mrs. A. Premalatha, M.S. No. 427/2015 is appointed as Advocate Commissioner, with direction to inspect the suit property, surrounding S.No. as mentioned in the petition, along with qualified Surveyor, note down the physical features and petition mentioned purpose, after giving notice to concerned parties and report with Plan and Sketch. Advocate Commissioner's Fees is fixed at Rs. 10,000/- to be paid directly to the Advocate Commissioner on or before 22.07.2025. Advocate Commissioner Report and Plan by 11.08.2025.

Dictated by me to the Stenographer Grade I, typed by her directly in the Computer, Corrected and Pronounced by me in the Open Court, this the 14th day of July 2025.

**Principal District Judge,
Thiruvarur.**

Appendix:-

Witnesses examined:-

Both sides: Nil.

Exhibits marked:-

Both sides: Nil.

P.D.J.

