

In the court of the Principal District Judge, Cuddalore District, Cuddalore

**Present: Tmt.G.Subathira Devi, M.L.,
Principal District Judge, Cuddalore.**

Friday, the 10th day of April, 2026

P.O.P.No.134/2025

(TN CD01-004988-2025)

Duraisamy

... Petitioner/Plaintiff

/Versus/

1. D.K.Sekar (Power Agent)
2. Pravin
3. The Sub Registrar,
Nellikuppam.
4. The District Collector,
Cuddalore.

...Respondents/Defendants

This petition came on 01.04.2026 for final hearing before me in the presence of Selvi/Tmt.K.Kalaiselvi, Advocate for the petitioner and of Thiru.N.Kannan, Advocate for the 1st Respondent and of Thiru.R.Vaitheeswaran, Advocate for the 2nd Respondent and of Thiru.K.Raman, Government Pleader for the 3rd and 4th Respondents and upon hearing both side arguments and upon perusing the case records and having stood over for consideration till this day, this court delivered the following:

ORDER

This petition is filed by the petitioner under Order 33 Rule 1 of CPC seeking to permit the petitioner/plaintiff to sue as an indigent person.

2. The petition averments are as follows:

The petitioner is owns his suit property. The petitioner's wife is a cancer patient and she was undergoing treatment for her ill-health at Madras. At this stage, for want of sufficient time, he gave power to one Sekar who is the 1st respondent in this case, on 03.07.2023 under a registered Power deed. As per the recitals of this power deed, the 1st respondent Sankar was permitted to mortgage, lease and execute bogium in respect of the suit property. The 1st respondent has no power to sell the suit property to anybody. But the 1st respondent sold the suit property to the 2nd respondent under a registered sale deed dated 23.01.2025 without the consent of the petitioner. Since the petitioner was at Madras, he could not know the fact of the sale immediately. The petitioner came to know of the illegal sale only on 25.02.2025 after his return to his village. The 1st respondent has no power to sell the suit property. This action is illegal and quiet against to the terms and conditions of power deed. Hence, the petitioner/plaintiff filed this suit for declaration that the sale of the suit property by the 1st respondent to the 2nd respondent has to be declared as null and void and it cannot bind this petitioner/plaintiff and for recovery of possession of the same. The 3rd respondent is necessary party in this case since he has to register the property. The petitioner is now an indigent person. He does not own any movable or immovable property except the suit property. Further, the petitioner has no source of income to pay the court fee payable on the claim. The petitioner has neither alienated any property and nor entered into any contract in respect of any property. The petitioner has not disposed of any property within six months before the presentation of this application in order to enable himself to apply for permission to sue as an indigent person. The petitioner has not entered into any agreement with reference to the subject matter of the suit under which any other person has obtained an interest in such subject matter. The petitioner is an indigent person and he is not possessed of sufficient means to enable him to pay the above said court fee. He is not having any property either movable or

immovable to a value of more than Rs.1000/-. The petitioner is not working anywhere and has no income. The petitioner values the petition at Rs.26,85,800/- and seeking exemption from the Court fee payable thereon under Sec.40 of Tamil Nadu Court Fees Act and Suits Valuation Act is Rs.80,574/-. Hence, the petitioner prays to permit the petitioner to sue as an indigent person.

3. The counter averments filed by the 1st Respondent are as follows:

The petition filed by the petitioner is not maintainable in law and on facts and it is liable to be dismissed. This Respondent specifically denies the averments stated by the petitioner is an indigent person and he is not having no means to pay the court fee. The petitioner strictly liable to prove the same. True facts is that the petitioner has purchased a property in S.No.95/1B Ac.0.63 cent at Sathiyamangalam Sub.D. Vadapalai village from one Chandirasekaran on 03.06.1998 for Rs.60,320/- and in S.No.96/2 Ac.1.00 cent in the same village total extent of Ac.1.63 cent by way of sale deed. Similarly, a partition of ancestral properties took place among the family members of the petitioner on 14.07.2004 and pursuant to this partition, 'E' schedule property to an extent of Ac.9.52-1/2 cents of land situated in the aforementioned Vadapalai village were allotted to the petitioner, who has since been in possession and enjoyment of the same. Similarly, the petitioner is in possession and enjoyment of the property to an extent of Ac. 3.39 cents situated at Vadapalai village by way of Exchange deed dated: 21.09.2005. On 26.02.2016 the petitioner has mortgaged approximately 10 acres of the aforementioned properties with ICICI Bank and obtained a loan. The aforementioned documents have been registered at the Sub-Registrar Office, Sathyamangalam, Villupuram District, under document numbers 464/1998, 748/2004, 1217/2005, 269/2016 respectively. The petitioner is the owner of the above said properties. But the petitioner suppressed the above said facts and filed this petition with false allegation to seeks to permit the petitioner to sue as indigent person. The petitioner is not a pauper. There is no any

cause of action arose in this petition. The petitioner has not stated about his movable and immovable properties in his affidavit. The petitioner has filed this petition with false allegation. Hence, the 1st respondent prays to dismiss the petition with costs.

4. The counter averments filed by the 2nd Respondent are as follows:

The petition filed by the petitioner is not maintainable in law and on facts and it is liable to be dismissed. This Respondent specifically denies the averments stated by the petitioner is an indigent person and he is not having no means to pay the court fee. The petitioner strictly liable to prove the same. True facts is that the petitioner has purchased a property in S.No.95/1B Ac.0.63 cent at Sathiyamangalam Sub.D. Vadapalai village from one Chandirasekaran on 03.06.1998 for Rs.60,320/- and in S.No.96/2 Ac.1.00 cent in the same village total extent of Ac.1.63 cent by way of sale deed. Similarly, a partition of ancestral properties took place among the family members of the petitioner on 14.07.2004 and pursuant to this partition, 'E' schedule property to an extent of Ac.9.52-1/2 cents of land situated in the aforementioned Vadapalai village were allotted to the petitioner, who has since been in possession and enjoyment of the same. Similarly, the petitioner is in possession and enjoyment of the property to an extent of Ac. 3.39 cents situated at Vadapalai village by way of Exchange deed dated: 21.09.2005. On 26.02.2016 the petitioner has mortgaged approximately 10 acres of the aforementioned properties with ICICI Bank and obtained a loan. The aforementioned documents have been registered at the Sub-Registrar Office, Sathyamangalam, Villupuram District, under document numbers 464/1998, 748/2004, 1217/2005, 269/2016 respectively. The petitioner is the owner of the above said properties. But the petitioner suppressed the above said facts and filed this petition with false allegation to seeks to permit the petitioner to sue as indigent person. The petitioner is not a pauper. There is no any cause of action arose in this petition. The petitioner has not stated about his movable

and immovable properties in his affidavit. The petitioner has filed this petition with false allegation. Hence, the 2nd respondent prays to dismiss the petition with costs.

5. The counter averments filed by the 3rd Respondent and adopted by the 4th respondent are as follows:

The petition filed by the petitioner against this respondent is not maintainable and it is liable to be dismissed. There is no prayer or allegation stated by the petitioner in the petition against this respondent. This respondent specifically denies the petitioner is an indigent person and the petitioner has got no means to pay court fee. The petitioner own individual resident house in S.No.202/12 (Patta NO.117) and owns land in his name in various survey numbers in Vadapalayam village and detailed report from District Collector, Villupuram enclosed with this counter. The report obtained through the 4th Respondent herein from the District Collector, Villupuram. The petitioner is misusing the provision of law and is evading to pay the court fee in the case. This petitioner is nothing but an abuse of process of law. This respondent is formal parties to the further proceedings and there is no relief sought against the 3rd and 4th respondents. Hence, the respondent prays to dismiss the petition with costs.

6. No oral or documentary evidence adduced on the either side.

7. The point for consideration :

1. Whether the petition is allowed or not?

Point-1:

8. Heard both sides. Perused the case records.

9. This petition is filed by the petitioner under Order 33 Rule 1 of CPC seeking to permit the petitioner/plaintiff to sue as an indigent person.

10. On perusal of the case records it is found that the Petitioner is the plaintiff in the suit. The petitioner filed the suit as against the Respondents herein by cancellation of the sale deed dated 23.01.2025 of the petition mentioned suit property by the 1st respondent to 2nd respondent is null and void and award costs of the petition/suit and grant appropriate reliefs in the circumstances of the case. The value of the suit property is Rs.26,85,800/-. Court fee payable thereon is u/s.40 of Court Fees Act Rs.80,574/-. The petitioner has stated in his petition that the petitioner is now an indigent person and he does not own any movable or immovable property except the suit property and he has no source of income to pay the court fee payable on the claim. Further the petitioner stated that he has neither alienated any property nor entered into any contract in respect of any property and has not disposed of any property within six months before the presentation of this application in order to enable himself to apply for permission to sue as an indigent person and has not entered into any agreement with reference to the subject matter of the suit under which any other person has obtained an interest in such subject matter and he is an indigent person and he is not possessed of sufficient means to enable him to pay the above said court fee. He is not having any property either movable or immovable to a value of more than Rs.1000/-. The petitioner is not working anywhere and has no income. Hence, the petitioner seeks to permit the petitioner/plaintiff to file and prosecute the suit as indigent person. The 1st and 2nd respondents have denied the averments stated by the petitioner and they have stated that the petitioner is having immovable properties at Vadapalai village and in order to prove the same they filed documents in respect of the immovable properties. The Respondents 3 & 4 have denied that the petitioner is an indigent person and stated that the petitioner owns land in his name in various survey numbers in Vadapalai village. In order to prove the same, the 4th respondent has filed a report obtained from the District Collector, Villupuram. On perusal of the Report issued by the District Collector, Villupuram through the 4th respondent, it is mentioned that " விழுப்புரம்

மாவட்டம், மேல்மலையனூர் வட்டம், வடபாலை கிராமத்தைச் சேர்ந்த திரு.துரைசாமி, த.பெ.பத்மநாபன் (மனுதாரர்) என்பவர் இந்து ரெட்டியார் வகுப்பைச் சேர்ந்தவர் எனவும், தனியரின் ஆதார் மற்றும் குடும்ப அட்டை முகவரிகள் வடபாலை கிராமத்தில் உள்ளது எனவும், தனியர் வடபாலை கிராமத்தில் பட்டா எண்.117-ல் நத்தம் புல எண்.202/12-0.03.47 ஏர்ஸ் (0.8-1/2 சென்ட்) நிலத்தில் மெத்தை வீடு கட்டி நிலையாக வசித்து வருகிறார் எனவும், அதன் பட்டாதாரர்கள் 1. பத்மநாப ரெட்டியார், த.பெ. துரைசாமி, 2) பாண்டியன், த.பெ. பத்மநாப ரெட்டியார், 3. துரைசாமி, த.பெ. பத்மநாப ரெட்டியார் மற்றும், 4). சீனுவாசன், த.பெ. பத்மநாப ரெட்டியார் ஆகியோர் பெயர்களில் கூட்டுபட்டாவாக உள்ளது எனவும், தனியரின் தந்தையார் திரு.பத்மநாபன், தாயார் திருமதி.திலகவதி மற்றும் மனைவி திருமதி.ஜெயபாரதி ஆகியோர் இறந்துவிட்டார்கள் எனவும், தனியருக்கு ஒரு மகன் மற்றும் ஒரு மகள் இருப்பதாகவும், மகள் பாக்கியலட்சுமி என்பவர் வெளிநாட்டில் வேலை செய்து வருகிறார் எனவும், மகன் பிரபாகரன் என்பவர் சென்னையில் உள்ள தனியார் நிறுவனத்தில் பணிபுரிந்து வருகிறார் எனவும், மேற்படி துரைசாமி என்பவர் வடபாலை கிராமத்தில் தனக்கு சொந்தமான நிலத்தில் விவசாயம் செய்து வருகிறார் எனவும் தெரிவித்துள்ளார் என்றும், மேலும், தனியருக்கு வடபாலை கிராமத்தில் தனிப்பட்டாவாக பட்டா எண்.875-ல் 3.08.00 ஹெக்டேர் நன்செய் நிலங்கள் மற்றும் 0.51.00 ஏர்ஸ் புன்செய் நிலங்கள் உள்ளன என்றும், மேலும், மேற்படி கிராமத்தில் பட்டா எண்.4156-ல் புன்செய் புல எண்கள் 35/2B -ல் 0.35.50 ஏர்ஸ், 35/3B2-ல் 0.16.50 ஏர்ஸ் மற்றும் 37/1A-ல் 0.02.50 ஏர்ஸ் என மொத்தம் 0.54.50 ஏர்ஸ் உள்ளதாகவும், பட்டா எண்.605-ல் புன்செய் புல எண்கள்.35/3A-ல் 0.44.00 ஏர்ஸ், பட்டா எண்.4069-ல் நன்செய் புல எண்கள் 86/3-ல் 0.04.50 ஏர்ஸ், 99/6B-ல் 0.27.00 ஏர்ஸ், பட்டா

எண்.359-ல் புன்செய் புல எண்கள் 114/5A2-ல் 0.03.50 ஏர்ஸ், 29/1-ல் 0.50.00 ஏர்ஸ், 35/3C1-ல் 0.94.50 ஏர்ஸ், 35/4B-ல் 0.07.50 ஏர்ஸ் மற்றும் 35/5B-ல் 0.08.00 ஏர்ஸ் என மொத்தம் 1.63.50 ஹெக்டேர் கூட்டுப்பட்டாவாக உள்ளது எனவும், பட்டா எண்.359-ல் நன்செய் புல எண்.71/4-ல் 0.09.50 ஏர்ஸ் ஆகியவை உள்ளது எனவும் வடபாலை கிராம நிர்வாக அலுவலர், மேல்மலையனூர் வருவாய் ஆய்வாளர் மற்றும் கிராம கணக்குகளின் அடிப்படையில் தெரிய வருகிறது எனவும், மேற்படி கிராமத்தைச் சேர்ந்த திரு.துரைசாமி. த.பெ. பத்மநாபன் என்பவர் வறியவர் இல்லை எனத் தெரவித்து பார்வை-3-ல் காணும் கடிதத்தின் வாயிலாக மேல்மலையனூர் வருவாய் வட்டாட்சியரின் அறிக்கை வரப்பெற்றுள்ளது. எனவே, மேல்மலையனூர் வருவாய் வட்டாட்சியரின் அறிக்கையின் அடிப்படையில் கடலூர், முதன்மை மாவட்ட நீதிமன்ற வறியவர் வழக்கு எண்.POP.No.134/2025-ல் வழக்கின் வாதியான திரு.துரைசாமி, த.பெ. பத்மநாபன் என்பவர் வறியவர் நிலையில் இல்லை" . In view of the above said report and facts it is found that there is no doubt that the petitioner is having sufficient means to pay the court fees but he misused the provision of law and is evading to pay the court fees in this case. Under these such circumstances, the petitioner cannot be considered as indigent person to sue the suit since the petitioner is having sufficient means. In the meantime, the petitioner has stated in his plaint that he is having only suit property. The above said aspect cannot be accepted by this court. In view of the all above discussions, this court finds that the petitioner is having adequate source to pay the court fees, but he suppressed that he owns immovable properties at Vadapalai village and filed this petition and also the petitioner has not approached the court with clean hands. Under these circumstances, this court decides that the petitioner is not pauper and thereby he is not entitled to prosecute the suit as an indigent person and there is no merit in the petition and the petition is liable to be dismissed. Thus the point is answered accordingly.

11. In the result, the petition is dismissed. No costs.

Dictated to the steno-typist and directly typed by her in computer, corrected and pronounced by me in open Court, this the 10th day of April, 2026.

Principal District Judge,
Cuddalore.

Encl:

Petitioner side Witness and Exhibits: NIL

Respondents Side Witness and Exhibits : NIL

Principal District Judge,
Cuddalore.