

In the Court of Principal District Judge, Kanyakumari District at Nagercoil.

Present : Thiru B. Karthikeyan, B.L.,
Principal District Judge.

Wednesday, the 15th day of October, 2024.

I.A. Nos.4/2025 and 5/2025 in COS No.2/2024

Raja Pravin

... Petitioner/Plaintiff in both
petitions

-Vs-

1. The Executive Officer,
Thingal Nagar Selection Grade Panchayath,
Thingal Nagar.
2. The Assistant Director,
Town Panchayath,
Nagercoil,
Kanyakumari District.
3. The Executive Engineer,
Engineering Departments of Town Panchayath,
Thirunelveli District.
4. Assistant Executive Engineer,
Engineering Departments of Town Panchayath,
Nagercoil,
Kanyakumari District.

5. The Junir Engineer,
Engineering Section,
Thingal Nagar Town Panchayath,
Kanyakumari District.

6. The District Collector,
Kanyakumari District.

... Respondents/Defendants in both
petitions

These two petitions coming on 13.08.2025 for final hearing before
me in the presence of

Thiru S. Birlesh Kumar	-	Advocate for the petitioner in both petitions
Thiru C. Johnson	-	Government Pleader for the Respondents 1 to 6 in both petitions

and upon hearing both side and upon perusing the materials available on record
and having stood over for consideration till this day, this court delivered the
following:

COMMON ORDER

IA No.4/2025 has been filed by the petitioner/plaintiff seeking to
recall PW1 for the purpose of producing additional documents.

2. IA No.5/2025 has been filed by the petitioner/plaintiff seeking leave of this court to receive the additional documents mentioned therein.

3. The suit which has been filed by the plaintiff for recovery of money arising out of contract is pending for the plaintiff side further evidence. At this stage, the present petitions have been filed by the plaintiff claiming that at the inception of the suit, the documents were not available in the hands of the plaintiff and these documents are very essential for the disposal of the suit and to establish the plaintiff's case. It would also be contended that the documents which have been filed along with the petition are already available with the defendants and therefore, it is just and necessary that documents are received. On the same grounds, the petition seeking recall of PW1 also has been filed.

4. The respondents filed a counter statement in and by which, they would claim that the plaintiff has not spoken anything about the documents sought to be produced either in the plaint or during his chief examination. Moreover, under the Commercial Courts Act, the plaintiff does not have any authority to file additional documents. Reasons stated by the petitioner for non production of the documents earlier has also been disputed.

5. Heard both. Perused the materials on record.

6. **The Point for consideration that arises in these petitions is:-**

(i) Whether the present petitions deserve to be allowed?

7. **Point No.(i):-**

The contention that the Commercial Courts Act does not permit to file additional documents cannot be sustained for the reason that even after amendment of the Civil Procedure Code by substitution of Order XI applicable only for commercial cases by the Commercial Courts Act, the Sub Rule (5) states as follows:

“The plaintiff shall not be allowed to rely on documents, which were in the plaintiff’s power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of court and such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint ”

8. Therefore, it is for the plaintiff to convince this court that he was prevented from filing the document due to reasonable cause and from specifying the same in the plaint. In the present case, the petitioner has claimed that the documents were not available at the inception of the suit as a reason for non filing the documents earlier. This reason has not been disputed by the respondent. Similarly, the claim that these documents

are relevant for the effective disposal of the suit and to prove the plaintiff's case has not been disputed by the respondent.

9. In such circumstances, this court finds that the petitioner/plaintiff has shown sufficient reasons for non filing of the documents at the inception. As such, the present petitions deserve to be allowed. However, considering the inconvenience caused to the respondents, they shall be suitably compensated. Point No.(i) is answered accordingly.

7. In the result, IA Nos.4/2025 and 5/2025 are allowed on the condition that the petitioner pays a sum of Rs.1000/- (Rs.500/- for each petition) to the respondents through the Government Pleader on or before 30.10.2025, failing which the petitions shall stand dismissed. Call on 31.10.2025.

Dictated to the Steno-typist, typed by her, corrected and pronounced by me in open court, this the 15th day of October, 2025.

Sd/-
Principal District Judge,
Kanniyakumari at Nagercoil.

Principal District Court,
Nagercoil.
Fair Common Order in
I.A.Nos.4 and 5/2025 in
C.O.S. No.2/2024
Dt.: 15.10.2025