

**IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,
II Additional District Munsif, Nagercoil.

Wednesday, on the 30th day of April, 2025.

I.A. No. 3 of 2024 in O.S. No. 798 of 2009

CNR No.TNKK04-000306-2009

1. V. Chenthamil Selvi

2. Kalaimathi

3. R. Siva Guru Kuttalam

... Petitioners / Plaintiffs &
Authorized person to the
2nd Plaintiff

-vs-

1. Paul Nadar

2. Ponnusamy

3. Baby

4. Suresh

5. Sivasankaran

6. Annakili

7. Kamatshi

... Respondents / Defendant and Pro.
Addl. Defendants 2 to 7

This Petition came up before this Court today on 28.04.2025 for a final hearing in the presence of Mr. R. Arumugaperumal, Advocate for the Petitioners and Mr. P. Selvaraj, Advocate for the 1st Respondent / Defendant and Mr. G. Sivaraja Poopathy, Advocate for the Addl. 2nd Respondent / Addl. 2nd

defendant and Addl. 3rd to 7th Respondents were set exparte and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

ORDER

The petitioner has filed the above petition under Order I Rule 10(2) and Section 151 of Code of Civil Procedure, seeking to implead the interested parties as necessary parties in the suit as proposed additional defendants 2 to 7 in the suit for proper and complete adjudication.

Gist of Averments in the Petitioners Petition :

2. The petitioner is the authorized person to the plaintiffs and petitioner herein. As such, the petitioner was competent to swear this affidavit. The petitioner was filing this affidavit on petitioner behalf and on behalf of the petitioners 1 and 2 herein, who are none other than petitioner's wife and sister-in-law. Originally, the 1st and 2nd petitioners herein have filed suit for demarcation of boundary between plaint schedule properties and property under the possession of defendant and permanent injunction for restraining the defendant and his men and agents from trespassing, demolishing and encroaching the southern boundary on the plaint schedule properties. It is submitted that one Paul Nadar, S/o. Paulayya Nadar was alone arrayed as defendant in the case as he is enjoyed the properties adjacent to the plaint

schedule properties as owner, so the defendant alone is arrayed as defendant, but some other person name placed in the Patta, and the same is ascertained only though the Patta for Sy. No.331/12, 13, 14A, 14B 15 and 16 of Neendakarai 'B' Village. In the Patta Paul Nadar, S/o. Palayya Nadar, Ponnu Swamy, S/o. Palayya Nadar and Chithambara Nadar, S/o. Sudalai Madan. Further, in the written statement the defendant pleaded that the southern side of the plaint schedule property are under the enjoyment of the defendant's brother Ponnuswamy and Sivasankaran, S/o. Chithambara Nadar and as such they are all necessary proper parties to the suit, but not pleaded about the ownership.

3. The petitioners that there are other interested parties in the subject matter, so it is necessary that they are to be arrayed as parties to the suit for the proper and complete adjudication in this matter. The bonafide thought of ourselves that the property only with the defendant alone other legal heirs of Palayya Nadar were impleaded while instituting the suit. Non impleadment of other legal heirs is neither wilful nor wanton. A separate application is filed by our Advocate for the same relief and the same may be allowed in the interest of justice, lest petitioners will be put to irreparable loss and injury. Hence, the petition is to be allowed.

Gist of the Averments in the 1st Respondent / defendant Counter:

4. The 1st Respondent / defendant had filed a counter stating that the petition is not maintainable in law or on facts. The suit was filed by the plaintiffs during the year 2009 and the same is pending for disposal and now after the lapse of fifteen years, the present petition is filed without having any reasonable and justifiable cause whatsoever. The suit was filed for demarcating and putting up boundary on the southern side of the plaintiff 'A' schedule and 'B' schedule properties and for other reliefs. On the southern side of the plaintiff 'A' and 'B' schedule properties, the defendant's property alone is situated and nobody else is having any property in that area. The petitioner's allegation that some other person's name found place in the patta and in the written statement, the defendant pleaded that the southern side of the plaintiff's schedule property is under the enjoyment of the defendant and his brother Ponnuswamy and Sivasankaran, S/o. Chithambaram Nadar and as such they are necessary parties in the suit is not correct. In the partition between the defendant and his brother Ponnusamy, the defendant alone is having properties in R.S.No.13, 14, 15 of Neendakarai 'B' Village and Ponnusamy is allotted with other properties and nobody is having the property now on the southern side of the plaintiff's property. The proposed additional defendants 2 to 7 are highly unnecessary parties to the suit. The proposed additional defendants 3 to 7 are no way connected with the suit property or the suit claim made by the plaintiffs in the

case and they are all unnecessary parties to the case. The Plaintiff's with an object of causing unnecessary hardship and difficulties to the defendant filed the petition and protracting the case with ulterior motives. Hence to accept the counter and dismissed the petition.

Gist of the Averments in the 2nd Addl. Respondent Counter:

5. The 2nd Addl. Respondent had filed a counter stating that all the facts in the petition is denied except those that are specifically accepted. The 2nd respondent Ponnuswamy has been managing his property by defining accurate boundaries based on proper documentation. Baby, D/o. Chellathurai and Suresh, D/o. Chellathurai are unknown persons. They do not have any property near the plaint schedule property. Similarly, Annakili, D/o Paulayya Nadar and Kamatchi, D/o. Paulayya Nadar, also do not have any property near the plaint schedule property. Furthermore, the defendant in the original case did not damage the southern boundary of the plaint schedule property, nor did they try to unlawfully enter the southern part of the plaint schedule property.

6. The petitioners only have the right to one acre of land through Vijayaraghavan. The claim in the case stating 1 acre 8.5 cents is incorrect. The petitioners, who have now added additional defendants are unaware of who owns the property along the southern boundary of the plaint schedule property. Therefore, this petition was filed with incorrect information and with bad

intentions. Hence to accept the counter and dismissed the petition. The petitioners have filed a petition to add unnecessary parties to the case. If this petition is allowed, it will cause significant harm to 2nd respondent.

7) The point for consideration is whether the above petition has to be allowed or not?

8) Point:

Heard both sides. Records perused. The petitioner herein is an authorized person to the original plaintiffs, the suit is for demarcation of boundary between plaint schedule properties and property under the possession of the defendant and also for permanent injunction. The petitioner stated that the defendant Mr. Paul Nadar, S/o. Paulayya Nadar was alone arrayed in the suit but, there found some names like Ponnu Swamy, S/o. Paulayya Nadar and Chithambara Nadar, S/o. Sudalai Madan in the Patta for survey No.331/12, 13, 14A, 14B 15 and 16 of Neendakarai 'B' Village and also the defendant in the written statement pleaded that the southern side of the plaint schedule property are under the enjoyment of defendant, brother Ponnu Swamy and Sivasankaran, S/o. Chithambara Nadar as such they all are necessary proper parties to the suit. Upon perusing the written statement and the counter filed by respondent, the court was unable to determine who exactly holds rights to or is in possession of the southern portion of the plaint schedule properties, as well as who owns or

occupies the land adjacent to the southern boundary.

9. Additionally, there were no specific details, provided explaining how respondents 3, 4, 6 and 7 are connected to the suit to justify their inclusion as necessary parties. Also, this court is not pleased with such an inordinate delay in filing this petition, since the instituted in 2009. Despite the above mentioned weak grounds, only upon considering no prejudice to be caused to avoid multiplicity of proceedings and in the interest of justice, this court is inclined to allow this petition on conditional cost.

As a result,

This petition is allowed, on the condition that the petitioners shall pay a sum of Rs.2,000/- (Rupees Two Thousand only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 04.06.2025. otherwise, this petition would be dismissed. Call on 05.06.2025.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 30th day of April 2025.

II Additional District Munsif,
Nagercoil.

Petitioners side witnesses and documents : Nil.
Respondents side witnesses and documents : Nil.

II Additional District Munsif,
Nagercoil.

Draft/Fair Order
I.A.No. 3/2024 in
O.S.No.798/2009
Date: 30.04.2025.
II ADM Court, Nagercoil.