

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

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,

**II Additional District Munsif, Nagercoil
Thursday, on the 2nd day of July, 2026.**

I.A. No.4 of 2026 in

O.S.No.53 of 2021

CNR No.TNKK04-000057-2021

C. Kanagasabapathy

... Petitioner / Plaintiff

-VS-

1. P. Ayyathurai

2. The Tahsildar

3. The Sate of Tamil Nadu,

rep. by the District Collector

... Respondents / Defendants

This Petition came up before me on 25.06.2026 for a final hearing in the presence of Mr. G. Sivakumar, learned Counsel for the Petitioner / Plaintiff and Mrs. Krishna Thulasi, learned Counsel for the 1st Respondent, endorsed “ No counter ” and Mr. C. Johnson, Government Pleader of the 2nd and 3rd defendants and upon hearing both sides arguments, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

ORDER

The Petitioner has filed under Order XVI Rules 1(2) and 6 r/w Sections 30 and 151 of the Code of Civil Procedure, seeking to pass an order for issuance of summons to the witness scheduled hereunder for production documents pertaining to lands in Survey No.424/2 and 424/18 of Dharmapuram South Village, Agasteeswaram Taluk and to give evidence as PW5 on the side of plaintiff and pass such or further orders as this court may deem fit and proper in the circumstances of the case.

2. Gist of Averments in the Petitioner's Petition :

The petitioner is the plaintiff in the suit filed for declaration of title and consequential injunction; and a decree for demarcation of eastern boundary of the plaint schedule property on the basis of title deed in petitioner's name along with other declaratory reliefs.

3. The petitioner submit that the above matter stands posted for trial in the stage of plaintiff side evidence. The petitioner have earlier filed an application in I.A.No.2 of 2024 seeking to call for and issue summons to two of the witnesses mentioned in the witness schedule for producing relevant documents and to give evidence

4. The petitioner alleged that the aforesaid IA came to be allowed by this court vide order dated 22.04.2025 and accordingly PW2 to PW4 came to be examined as Plaintiff side witnesses. However, during the examination of PW3 and PW4, it was known that the patta as issued in the name of 1st defendant for land in Survey No.424/2 of Dharmapuram South Village is approved on the basis of documents pertaining to the same registered on the file of the Kanyakumari Joint Sub-Registrar Office.

5. The petitioner also alleged that the patta sub-division as impugned herein had been effected on the basis of ambiguous deeds registered on the file of Kanyakumari Joint Sub-Registrar Office in favour of the 1st defendant. Due to the ambiguity in the said deeds and consequent approval of patta sub-division, the 1st defendant has encroached upon the plaintiff's property in Survey No.424/18.

6. The petitioner averred that above stands posted for further PWs on the side of plaintiff. It has now become incumbent upon the plaintiff to examine the Kanyakumari Joint Sub-Registrar with relevant documents pertaining to lands in Survey Nos.424/2 and 424/18 of Dharmapuram South Village, so as to decide the issue of demarcation and declaration of title.

7. Therefore, petitioner have filed a separate application accompanying this affidavit under Order XVI Rule 1(2) r/w Sections 30 and 151

of the Code of Civil Procedure, 1908, seeking to issue summons to the Kanyakumari Joint Sub Registrar Office to produce relevant documents and give evidence on the side of plaintiff. Hence, this petition is allowed.

8. Gist of Averments in the 2nd and 3rd Respondents Counter:

The 2nd and 3rd respondents has filed counter stated in the affidavit along with the petition are submitted that the petitioner / plaintiff is put into proof of the same. It is submitted that in order to drag on the proceedings the petitioner / plaintiff have filed this vexatious petition against the Government officials. The petition is devoid of merits and truth. The petitioner / plaintiff has no locus-standi to file this petition at this stage. The petitioner has no cause of action to file this petition. The petition is not maintainable in law or on facts. The petition has lack of bonafide and hence it is liable to be dismissed.

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

10. Heard both sides. Records perused. The petitioner has filed the present petition under Section 30 r/w Order XVI Rule 1(2) and Rule 6 of the Code of Civil Procedure seeking issuance of summons to the Sub-Registrar, Kanyakumari Joint-I Sub-Registrar Office, Nagercoil, for his attendance before this Court to adduce evidence and to produce the relevant documents pertaining to the lands comprised in Survey Nos.424/2 and 424/18 of Dharmapuram South Village, Agastheeswaram Taluk, Kanyakumari District.

11. In the affidavit filed in support of the petition, the petitioner, who is the plaintiff in the suit, has averred that the suit has been instituted for declaration of title, consequential injunction, demarcation of the eastern boundary of the plaint schedule property on the basis of the title deed standing in his name, along with other declaratory reliefs and costs. The petitioner has further stated that during the course of examination of PW3 and PW4 on the plaintiff's side, it came to light that the patta issued in favour of the 1st defendant in respect of the land comprised in Survey No.424/2 of Dharamapuram South Village had been approved on the basis of certain documents registered in the office of the Kanyakumari Joint-I, Sub-Registrar, Nagercoil.

12. According to the petitioner, the impugned patta subdivision herein was effected on the strength of ambiguous deeds registered in favour of the 1st defendant, and owing to such ambiguity and the consequent approval of the patta subdivision, the 1st defendant has encroached upon the plaintiff's property situated in Survey No.424/18. It is further submitted that the case is presently posted for further plaintiff side evidence and that the examination of the Sub-Registrar along with the production of the relevant registered documents is necessary for a proper adjudication of the issues relating to declaration of title and demarcation of boundaries. The respondent has filed a counter contending that the application has been filed only to protract the proceedings, lacks

bonafides, and is therefore liable to be dismissed.

13. Considering the reasons assigned by the petitioner regarding the alleged ambiguity in the deeds registered in the Kanyakumari Joint-I Sub-Registrar Office and the consequential approval of the patta sub-division, this court finds that the purpose for which the witness is sought to be summoned constitutes sufficient cause, particularly in the context of the plaintiff's allegation of encroachment in Survey No.424/18. The evidence sought to be adduced appears to have a direct bearing on the issues involved in the suit and would assist the court in effectively adjudicating the dispute. Therefore, in the interest of justice, and in order to afford a fair opportunity to the plaintiff to establish his case and to enable this court to arrive at a just, effective and complete adjudication of the matter, this petition is allowed.

As a result, this petition is allowed. No cost.

The Order directly dictated to steno-typist typed in computer, and after making necessary corrections, and pronounced by me in the open court, this the 2nd day of July 2026.

II Additional District Munsif

Nagercoil

petitioner side witnesses and documents -: Nil.

Respondents side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil

*II ADM, Nagercoil.
Draft/Fair Order
I.A.No.4/2026 in
O.S.No.53/2021
Date: 02.07.2026.*