

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

Present : Tmt. M.Alima, B.A., L.L.M.,

II Additional District Munsif, Nagercoil.(FAC)
Friday, on the 14^h day of February, 2025.

I.A. No. 4 of 2025 in O.S. No.34 of 2023

1. Sreeman Narayanaswamy Thirukovil.
Vellaiyanthoppu,
rep. by its President C. Retnasigamony.
2. President C. Retnasigamony
3. Secretary R. Suyambulingam
4. Treasurer C. Murugesan

... Petitioners / Plaintiffs

-vs-

1. Paul Nadar
2. Ramasamy
3. Tamil Selvi
4. Manimegalai
5. Geetha

... Respondents / Defendants

This petition came before this court on 07.02.2025 for a final hearing in the presence of Mr. S. Vijaya Raghavan, learned Counsel for the Petitioners / Plaintiffs and Mr. K. Subhakaravel, learned Counsel for the Respondents / Defendants, 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 had filed under Order VII Rule 14 and Section 151 of the Code of Civil Procedure, seeking to permit the petitioners/plaintiffs to receive the documents and thus render justice.

2. Gist of Averments in the Petitioners /Plaintiffs Petition:

The petitioner is the 2nd Plaintiff in the main suit. The petitioner is the President of the 1st Plaintiff temple and as such petitioner's well aware with the facts and circumstances of the case and petitioner was filing this affidavit on behalf of the other plaintiffs also. The petitioner submit that they have filed the above suit seeking for the reliefs of permanent injunction restraining the defendants, their men and agents from disturbing or otherwise interfering the peaceful possession and enjoyment of plaintiff schedule property belongs to the plaintiff's temple. The petitioner submit that there are 1000 peoples are living in the Vellayanthoppu Village and they are the followers of Ayyavazhi. The petitioner submit that from the year 1930 there was a temple installed in the name of Sreeman Narayanaswamy Kovil situated at Vellayanthoppu Village. It is submitted that there was another temple in the same name was established in the year 1950 towards the western side of the old temple. On 04.01.1981, the members/tax payers of the said two temples joined together and formed a trust for the purpose of uniting the village people, to perform the temple festivals, to perform pooja and to perform development works in the village in a democratic manner. Consequently, a new temple was constructed in the campus after demolishing the old two temples. It is submitted that the male persons above 18 years are the tax payers

and as of now there are 300 members tax payers to the plaintiff temple. The petitioner further submit that the plaint schedule property herein is situated on the south side of the 1st plaintiff temple. The plaintiffs submit that one Mrs. Ramu Nadachi, W/o. Late. Ponnusamy Nadar was the owner of the property of land measuring to an extent of 24.1/2 cents comprised in Survey No.562/7 situated at Kottaram West Village, Agasteeswaram Takluk, Kanyakumari District. It is submitted that in the year 1974, there was a partition deed executed among the said Ramu Nadachi and her two daughters namely Nadachi Thangam, Thangammai @ Nesapandia Nadachi in respect of the said 24.1/2 cents and other properties vide partition deed dated 31.05.1974 registered as Doc.No.2915/1974. By way of the above partition deed the land measuring to an extent of 12.1/2 cents on western side was allotted to Nadachi Thangam and the land measuring to an extent of 12.1/4 cents on eastern side was allotted to Thangammai @ Nesapandia Nadachi. The petitioner submit that the said Thangammai @ Nesapandia Nadachi got married in the year 1974 and in a few months her husband deserted her for the reasons not known to the plaintiffs herein. Thereafter, her mother Mrs. Ramu Nadachi took care of her daughter Thangammai. During the year 1981, the said Mrs. Ramu Nadachi and her daughter Thangammai @ Nesapandia Nadachi offer to sell the schedule property of 12.1/4 cents to the 1st plaintiff temple for meeting out their family expenditure. It is further submitted that by agreeing the said offer the 1st plaintiff temple authorities had paid a total sale consideration of Rs.6,000/- on 27.01.1981 and Thangammai @ Nesapandia Nadachi had issued a cash receipt for the same. Further she had given the copy of

Doc.No.2915/1974 and handed over the possession of the plaint schedule property to the 1st plaintiff temple on the same day but before executing the sale deed Mrs. Ramu Nadachi was missing and her whereabouts not known to anyone. Thangammai @ Nesapandia Nadachi was not well and her mother also missing, in that situation the said Thangammai @ Nesapandia Nadachi sought sometime to execute the sale deed. As there was no other go the then plaintiff temple authorities kept silent for some time. The petitioner further submit that thereafter to the shock and dismay the said Thangammai @ Nesapandia Nadachi was suffered from some mental illness. When it was came to the knowledge of the plaintiffs, then plaintiff temple authorities approached her family members and for that they have admitted the receipt of the sale consideration and they have also given assurance that they will not disturb the possession of the plaintiff's temple in the schedule property. Hence, in that circumstances the plaintiffs are not able to proceed further and the execution of sale deed kept in abeyance. The plaintiffs further submit that based on the assurance and undertaking given by her family members the 1st plaintiff temple authorities had left the issue as unsettled for the time being. The petitioner submit that as Mrs. Ramu Nadachi was missing for the past 40 years (i.e. more than 7 years she was missing) and her whereabouts not found by anyone till date. In such circumstances of Mrs. Ramu Nadachi has not been heard of for seven years by the defendants herein, who would naturally have heard of her if she had been alive, she is to be presumed to be dead. Further in the year 07.12.2015, Thangammai @ Nesapandia Nadachi also died without any issues and further no one claim as legal guardian. The petitioner further submit

that the 1st plaintiff temple has the absolute, peaceful and uninterrupted possession of plaintiff schedule property for the past 43 years. Further the plaintiff temple authorities are not known about the legal heirs/legal guardian of said Thangammal @ Nesapandia Nadachi and when it is come to the knowledge of the plaintiffs, they are ready to approach them and get the sale deed execute in favour of plaintiff temple. Hence, the plaintiffs' reserves right to claim to execute sale deed in favour of plaintiff's temple in respect of schedule proeprty. The petitioner further submit that another daughter of Mrs. Ramu Nadachi namely Mrs. Nadachi Thangam also died. The 1st defendant herein is the husband of said Late. Nadachi Thangam and the defendants 2 to 5 herein are the son and daughters to her. Now the defendants herein disturbed the peaceful possession of the plaintiffs temple in the plaintiff schedule property, Apart from that the entire property is laying as a single plot and it is in the possession of the plaintiff's temple. The petitioner further submit that the plaintiff schedule property is in absolute and uninterrupted possession of the 1st plaintiff temple from the year 1981 till date. The scheduled property is used by the temple for providing Anna Thangam and conducting sports for the children and conducting cultural programs. Now, it is came to know that the defendants who are the legal heirs of Mrs. Ramu Nadahchi had mutated the revenue records in their name by suppressing the above facts and attempted to create encumbrance to the schedule property. The petitioner submit that during Pongal festival while conducting sports program for the children the defendants and his men creating nuisance and disturbances to conduct the sports activities and caused damage to the plaintiff temple. When the plaintiff's management asked about

the disturbances, the defendants and his persons scolded in filthy language and threaten the plaintiffs. Now, the defendants attempted to sell the schedule property by creating forged documents and thereby attempted to create encumbrance to the schedule property. The petitioner further submit that all the illegal attempts of the defendants are thwarted by the plaintiffs in a timely intervention but the defendants continuously accusing disturbance to the plaintiff's possession of the plaint schedule property. It is also pertinent to point out that the plaintiffs reasonably apprehend that the defendants may disturb the peaceful possession of plaint schedule property. The petitioner that in such circumstances the plaintiffs having left with no other remedy approached this Court for injunction. The present suit is being filed to protect the interest of the plaintiffs. The plaintiffs have made a prima facie case and the balance of convenience is in favour of the plaintiffs. When such be the circumstances, in order to substantiate the plaintiffs claim the suit, filed umty number of six documents and the defendants also filed frivolous and false complaint before the RDO, Nagercoil, and upon enquiry the RDO also rendered decision. Apart from that the plaintiffs traced it out the CD which is also highly required to ascertain the plaint schedule property and other documents required to be submitted are also traced it out by untiring effort and those documents fully and elaborately stated hereunder are required to mark on out side apart from the document filed along with the plaint. It is also humbly submit that if the documents stated hereunder are not permitted to receive and mark on our side much inconvenience and damage will occur to the petitioners/plaintiffs. Under these circumstances this court to permit the petitioners/plaintiffs to receive the documents.

Hence, the petition is to be allowed.

3) **Gist of Averments in the Respondents / Defendants Counter:**

The Respondents / Defendants have filed counter stating that the petition is unsustainable under law. This petition is vexatious in nature. The documents sought to be received are irrelevant documents to this case. Hence the documents cannot be received. There is no connection to this case and the documents cited as documents 6 and 7. The petitioner is not a competent person to produce and speak about the revenue plan. Hence, this plan cannot be marked through him. Hence to accept the counter and dismissed the petition.

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

5) Point:

Heard both sides. Records perused. This petition has been filed by the Petitioners / Plaintiffs, while the original case has been adjourned for PW1 Chief continuation. Although the Petitioners / Plaintiffs have not given proper reasons for not filing the documents promptly, this court considers that the documents filed with the petitioners petition are necessary to decide the original case and to give the petitioners sufficient opportunity to prove the case. Hence, this court inclined to allow this petition without cost.

6) Despite the petitioners seeking to mark the documents filed along with this petition as the Petitioners / Plaintiffs side, this court is receiving the documents subject to proof and relevancy. This court orders that the decision on marking of the documents be made during the time of evidence. Hence, this court is inclined to allow this petition subject to proof and relevancy of the said documents.

7) As a result,

This petition is allowed, subject to the proof and relevance of the said documents, without cost.

Dictated to the steno-typist, typed by her in the Computer directly, printed, corrected and pronounced by me in open court this the 14th day of February, 2025.

II Additional District Munsif, (FAC)
Nagercoil.

List of witness and documents for Petitioner side : Nil

List of witness and documents for Respondents side : Nil

II Additional District Munsif, (FAC)
Nagercoil.

*II ADM, Nagercoil.
Draft/Fair Order
I.A.No.4/2025 in
O.S.No.34/2023
Date: 14.02.2025.*

