

**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)

Wednesday, on this the 8th day of January, 2025

I.A. No.3/2024 & I.A.No.4 of 2024
in
O.S.No.208 of 2007

1.T. Yogeewaran

2. Krishnapillai

3. K. Thanupillai

4. O. Iyyappan

5. S. Rajagopal

6. A. Chellappan

7. C.N. Velayuthaperumal

8. N. Padmanathan

9. P. Parameshwaran

10. R. Perumalpillai

... Petitioners

-Vs-

T. Sudalaiyandipillai

... Respondent

These Petitions having come before me on 03.01.2025 for hearing in the presence of Mr. K. Subhakaravel, Learned Counsel for the Petitioners and in the Presence of Mr.T.K.S. Manian, Learned Counsel for the Respondent, counter not filed, set exparte and upon perusing the case records and having stood over till date for Consideration, this Court delivers the following:

COMMON ORDER

Prayer in I.A.No.3/2024

The petitioners have filed the above petition under Section 151 of the Code of Civil Procedure, seeking to receive the written statement of the 6th to 10th defendants in the interest of justice.

Prayer in I.A.No.4/2024

The petitioners have filed the above petition under Section 151 of the Code of Civil Procedure, seeking to reopen this case for receiving written statement of the 6th to 10th defendants in the interest of justice.

2) Gist of Averments in the Petitioners Petition:

The petitioner is the 6th Additional Defendant in this case. The plaintiff had filed the suit against the trustees of Arulmighu Kulasekarapuram Nangai Amman Thirukoil and Aathankarai Sudalaimadaswamy Koil Vellala Samuthaya Oorvagai Trust for bare injunction restraining the trustees from disturbing his possession over the plaint schedule property. The petitioner submit that even the plaintiff admitted in the plaint that the defendants are trustees are above said trust and they are trying to evict petitioner forcefully. The petitioner submit that the petitioner, petitioner and other trustees have been elected in the year 2019 and immediately after the election petitioners filed application to substitute ourselves as additional defendants 6 to 10 in this case. Since, Corona disease

intervened our application is pending before this court for a long time and eventually that has been allowed by this court. The petitioner submit that now in the year 2023, a new set of people have been elected as trustee and to that effect petitioners filed a memo before this court. Hence, petitioners were under the impression that the plaintiff would take necessary steps to implead them as parties to the suit and the newly elected trustee would file written statement in this case. Hence, inspite of the opportunity given by this court to file our written statement they have not filed it. So, this court closed the opportunity given to as for filing written statement. The petitioner submit that our written statement is a highly essential to determine in this case just and proper. If opportunity is not given to us for filing written statement by reopening this case, petitioners will be put into irreparable loss and hardship and that cannot be compensated. Hence, these petitions are to be allowed.

3) The Respondent is set ex parte in this petition.

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

5) Heard. Record perused. These petitions have been filed by the petitioners, while the original case has been adjourned for the PW1 cross examination. In spite of the fact that the reason for the petitioners non-filing of written statement in this court has been stated, the petitioner submit that now in

the year 2023, a new set of people have been elected as trustee and to that effect petitioners filed a memo before this court. Hence, petitioners were under the impression that the plaintiff would take necessary steps to implead them as parties to the suit and the newly elected trustee would file written statement in this case. Hence, inspite of the opportunity given by this court to file our written statement they have not filed it. So, this court closed the opportunity given to as for filing written statement. The petitioner submit that our written statement is a highly essential to determine in this case just and proper.

6) However, the petitioners have not provided adequate reasons for not filing this petition in court as soon as possible. Therefore, the plea raised by the petitioner in these petitions are not acceptable to this Court.

7) However, for a complete judicial determination of the original case and to give the petitioners sufficient opportunity to file written statement, it is necessary to grant permission to the petitioners; hence, in the interest of justice, this Court is inclined to allow these petitions on conditional cost.

I.A. No. 3 of 2024:

This petition is allowed, on the condition that the petitioners shall pay a sum of Rs.200/- (Rupees Two Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 24.01.2025. otherwise, this petition would be dismissed. Call on 24.01.2025.

I.A. No. 4 of 2024:

This petition is allowed, on the condition that the petitioners shall pay a sum of Rs.200/- (Rupees Two Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 24.01.2025. otherwise, this petition would be dismissed. Call on 24.01.2025.

Dictated to the steno-typist, typed by her in the Computer directly, printed, corrected and pronounced by me in open court this the 08th day of January, 2025.

II Additional District Munsif (FAC),
Nagercoil.

List of witness and documents for Petitioners side : Nil

List of witness and documents for Respondent side : Nil

II Additional District Munsif (FAC),
Nagercoil.

*II ADM, Nagercoil.
Draft/Fair common Order
I.A.No. 3/2024 &
I.A.No. 4/2024
in
O.S.No.208/2007
Date: 08.01.2025.*

