

**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 21st day of February, 2025.

I.A. No. 10 of 2025 in O.S. No.46 of 2020

1. Shri Bala. Prajapathi
 2. P. Pyan Krishna Raj
 3. P. Pyan Krishna Nama Mani
 4. P. Pyan Chella Vadivoo
 5. P. Pyan Namrish Chella
- ... Petitioners / Plaintiffs

-vs-

1. The District Collector, Kanyakumari District
 2. The Block Development Officer, Agasteeswaram,
Perumalpuram
 3. The President, Swamythoppu Village Panchayat,
Swamythoppu Post
 4. The Thashildhar. Agasteeswaram Taluk, Nagercoil.
- ... Respondents / Defendants

This petition came before this court on 20.02.2025 for a final hearing in the presence of Mr. C. Ashok Kumar, learned Counsel for the Petitioners / Plaintiffs and Mr. C. Johnson, Government Pleader 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(3) of Code of Civil Procedure, seeking to receive the documents mentioned in the list of documents and render justice.

2. Gist of Averments in the Petitioner Petition :

The Petitioners are the plaintiffs in the suit. The petitioners have filed a suit for declaration that the decree in O.S.No.378/2005 dated 21.10.2005 passed by the First Additional District Munsif at Nagercoil is null and void and for permanent injunction restraining the respondents 1 to 4 to remove the existing retaining wall in Re.Sy.No.273/18 of North Thamaraikulam Village and for permanent injunction restraining the respondents 5 to 7 to execute the decree in O.S.No.378/2005 dated 21.10.2005 passed by the First Additional District Munsif at Nagercoil and also for mandatory injunction that, the entries in the revenue records as Nilavaiyal Pathai is to be removed in respect of the plaint schedule property. The petitioners had urgently filed suit, at the time of filing the suit, petitioners have only xerox copy of plaint documents 1 to 5 and therefore petitioners have produced the xerox copy of the plaint documents 1 to 5. Now, the petitioners have obtained the certified copy of the plaint documents 2, 3 and 5. In addition petitioners have got certified copy of final decree in

O.S.No.906/1953 and the same is very vital document to prove our case. Hence, the petition is to be allowed.

3. **Gist of Averments in the Respondents Counter:**

The respondents have filed a counter stating that the petition that has been filed by the plaintiff to receive the documents is not at all maintainable in law or on facts. The documents sought to be received are not at all relevant for an effective adjudication of the dispute involved in the suit. There is no sufficient ground entertain this petition at this stage. The averments contained in the affidavit filed in support of the petition are not correct and hence denied. The petition is devoid of merits and good faith. The attempt of the plaintiff in filing the suit is to harass the respondents. The petition is to fulfil the lacuna to file documents. So, in any view of the matter to the petition is not maintainable. Hence, the respondents pray that to accept this counter and dismiss the petition with costs.

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, 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 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 21st day of February, 2025.

II Additional District Munsif, (FAC)
Nagercoil.

List of witness and documents for Petitioners 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.10/2025 in
O.S.No.46/2020
Date:21.02.2025.*

