

**In the Court of the II Additional District Munsif, Nagercoil**

**Present: Thiru.R.Sundara Kamesh Marthandan, M.L.,**  
II Additional District Munsif, Nagercoil

Saturday on this 1<sup>st</sup> day of July 2023.

**I.A. No.6 of 2022**

**in**

**Original Suit No. 94 of 2020**

K.S. Suja

Represented by Power Holder

L.Piraisoodumperumal Pillay

.. Petitioner/Plaintiff

-vs-

1. Adheenakartha Avarkal

Thirukailaya Paramparai

Thiruvavaduthurai Atheenam Mutt,

Thiruvavaduthurai.

2. The Inspector,

Thiruvavaduthurai Atheenam Mutt,

Suchindrum.

.. Respondents/Defendants

This Petition came up before this Court on 16.06.2023, in the presence of Thiru. N. Ramadhas Advocate for the Petitioner and Thiru.V.Kumaran Nair Advocate for the Respondents, on hearing both sides arguments and upon perusing the case records and having stood over for consideration till this day, this Court delivers the following:

**ORDER**

1. The Petitioner/Plaintiff had filed the above Petition under Order XI Rule 14 Section 151 CPC., seeking an order to directing the Respondents/Defendants to produce the Petition mentioned receipt before this Court.

2. The Petitioner had stated that, the Petitioner is the Plaintiff's power holder and that the Plaintiff had filed the suit for Permanent Injunction and that the Plaintiff had paid Pattom to the defendants till 2016. The 2nd defendant had not issued receipt and prolonged issuing of the receipt. The Plaintiff has not paid the Pattom from the year 2017 onwards.

3. Further the Plaintiff's husband sent a D.D for Rs. 8,000/- (Rupees Eight Thousand Only) for one year Pattom to the 1<sup>st</sup> defendant. The 1<sup>st</sup> Defendant along with his reply dated 16.06.2020, return the D.D. As such the Pattom amount for the period from 2017 to 2020 at the rate of Rs. 8,000/-(Rupees Eight Thousand Only) per Pattom for four years in all Rs.32,000/-(Rupees Thirty Two Thousand Only) has to be paid. The Petitioner had filed Interlocutory Application No. 5 of 2020 seeking permission to deposit the Pattom before the Court. The defendants in their written statement have denied the payment of part time amount to the defendant. Further the 1<sup>st</sup> defendant is maintaining the pattom payment receipt. If the Pattom payment counter filed book is produced the fact has to payment of Pattom could be brought to light. Hence the Petitioner had filed the Pattom payment Receipt Book from the year 28.03.1999 to 02.06.2011.

4. The respondent in his counter had stated that the above Petition is not maintainable and the same as liable to be rejected. The Petition is a trespasser of the Aadheenam land, he has no right or claim over the Plaint Schedule Property mere payment of Pattom, the name of the party would never confer any right to the Petitioner/Plaintiff. The Plaintiff's claim of payment of Pattom, up to the year 2016

and filing, the above Petition seeking to produce counterfoils from the year 1999 to 2011 is not proper. If the Petitioner had paid the Pattom it is his burden to produce the receipts issued by the respondents. As such the respondents could not be called upon to prove the respondents contention, i.e., is the Petitioner had not paid any Pattom. The said contention of the respondent is negative in nature only the positive assertion of the Petitioner, that he had paid part of has to be proved by him by producing necessary documents by filing the above Petition. The Petitioner had attempted to fixed the burden of proof on the respondent/defendants. Hence the respondent prayed for dismissal of the above Petition.

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

6. The Petitioner had filed the suit seeking judgment restraining the defendants from evicting the Plaintiff forcibly from the Plaint Schedule Property without due process of law. The Petitioner along with the Plaintiff had filed Pattom payment receipts for the period from 1999 to 2011, in the name of Chithambaravadivoo Ammal as plaint documents No. 1 to 3.

7. Further in the affidavit filed in support of the Petition, the Petitioner had asked for the Plaint Pattom receipts from the year 28.03.1999 to 02.06.2011. However in the Petition, the Petitioner had mentioned and list of 14 counter files. As discussed above, the Plaintiff herself had filed about 16 receipts along with the Plaint. In such circumstances, the authority relied on by the respondent's counsel namely Krishna Pillai -vs- Anbu reported in MANU/TN/3907/2021, that the burden proving

the rent has to be proved by producing the receipt, is applicable to this case. Moreover when the Petitioner herself had filed the recipes, the Petitioner has not made out any reason for calling upon the defendant/respondents to produce the counter files. Once the Petitioner exhibits those documents at the time of trial and if it is found, that there is any necessity or any specific denial as to non issuance of those received by the respondents. The question of calling for the counterfoils would arise, as of now the above Petition does not finds any merit. Hence the same deserves an order of dismissal.

In the result, the above Petition is dismissed. No cost.

This order is dictated to the steno-typist directly, typed by her in computer, printout taken, corrected and pronounced by me in Open Court, this the 1<sup>st</sup> day of July 2023.

II Additional District Munsif  
Nagercoil.

Petitioner side witness & Documents : Nil

Respondents side witness & Documents : Nil

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I.A. No.6 of 2022  
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O.S.No.94 of 2020  
Fair Order

Date : 01.07.2023.