

**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 3rd day of July, 2025.

I.A. No.11 of 2024 in O.S. No.115 of 2015

CNR No.TNKK04-000154-2015

Kannan

... Petitioner / Plaintiff

-vs-

1. The State of Tamil Nadu,
rep. by its District Collector, Nagercoil.
2. The Tahsildar,
Agasteeswaram, Nagercoil.
3. The Village Administrative Officer,
Kottaram.

... Respondents / Defendants

This petition came before this court on 02.07.2025 for a final hearing in the presence of Mr. M. Parameswaran, Advocate for the Petitioner / Plaintiff 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 has filed the above petition under Order 9 Rule 9 and Section 151 of the Code of Civil Procedure, seeking to pass an order to restore

the suit which was dismissed for the default of the petitioner / plaintiff on 08.08.2024 and take case bundle on the file.

2. Gist of Averments in the Petitioner / Plaintiff Petition :

The petitioner is the plaintiff in this case. The petitioner / plaintiff filed this suit for seeking the remedy of declaration and permanent injunction against the defendants. The 3rd defendant Revenue Official had given 'B' memo receipt to petitioner concerned with the schedule property and also the previous possessors connected with the schedule property in the preliminary stage and classified the property as Govt. Poramboke in Re-survey No.333/2 of Kottaram Village

3. The plaint schedule property was classified as Government Poramboke earlier to the Re-settlement undertaken by the State Government during 1963-1975. The petitioner had filed as amendment petition which was numbered by the Court vide in I.A.No.9 of 2022 and allowed by this court. Subsequently, it was posted for filing APC and carry out amendment on the side of plaintiff on 08.08.2024. The petitioner could not be able to file APC and carry out amendment on that day due to my ill-health condition. The petitioner was called by this court on 08.08.2024 and petitioner was absent. So, this court dismissed the case as default of the petitioner / plaintiff on 08.08.2024. The non filing of APC and carry out amendment is neither intentional nor wilful and only

because of petitioner ill health condition. Petitioner was being suffered by Jaundice and took medical treatment for that. The petitioner was ready to follow the proceedings of this court, if the suit is restored. Under the said circumstances it is highly necessary to restore the suit. If the suit is not restored, petitioner will be put into irreparable loss and injury. Hence, the petition is to be allowed.

4) Gist of the Averments in the Respondents / defendants Counter:

The Respondents / defendants have filed a counter stating that all the averments except those that are herein after specifically admitted or otherwise dealt with shall be deemed to have been denied. It is submitted that in order to drag on the proceedings the petitioner / plaintiff have filed this vexatious petition against the Revenue Department. It is further submitted that, this prayer will definitely after the nature of the suit and scope of the suit which is not maintainable or permitted after the amendment of CPC. The petition is devoid of merits and truth. This petition is filed under assumptions, presumptions, inventions and imagination of the petitioner. The petitioners/plaintiffs have no locus-standi to file this petition at this stage. The petitioners have no cause of action to file this petition. The petition is not maintainable in law on facts. The petition has lacks bonafides and hence it is liable to be dismissed.

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

6) Point:

Heard both sides. Records perused. The petitioner filed the above suit for declaration and Permanent injunction, and the suit was dismissed on 08.08.2024, for non appearance of the petitioner/plaintiff. The petitioner claimed that due to ill-health condition, petitioner was unable to appear before this court on 08.08.2024. The suit is dismissed for default as petitioner was called absent on that day.

7) Eventhough no documents were filed to substantiate the same. However, with a view to giving one more opportunity to the petitioner/plaintiff and deciding the case on merit, this court is inclined to allow this petition with conditional costs.

As a result,

This petition is allowed, on the condition that the petitioner shall pay a sum of Rs.1,500/- (Rupees One Thousand and Five Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 10.07.2025. otherwise, this petition would be dismissed. Call on 10.07.2025.

Dictated to the Steno-Typist, and typed by her directly in the Computer,
corrected and pronounced by me, in open court this, the 3rd day of July 2025.

II Additional District Munsif,
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil.

Draft/Fair Order
I.A.No. 11/2024 in
O.S.No.115/2015
Date: 03.07.2025.
II ADM Court, Nagercoil.