

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

Present: **Thiru. R.Sundara Kamesh Marthandan, M.L.,**  
I Additional District Munsif, (FAC), Nagercoil.

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

**I.A. No.6 of 2021**  
**in**  
**O.S. No.158 of 2022**

- 1.P.Selvaraj
2. S.Subramanian
3. N.Perumal Pillai

... Petitioners/Plaintiffs

-vs-

1. State of Tamil Nadu,  
rep by the District Collector,  
Kanyakumari.
2. The Divisional Engineer,  
National Highways, Nagercoil.
3. The Commissioner,  
Nagercoil Municipal Corporation,  
Nagercoil.
4. Superintendent of Police,  
Kanyakumari District at Nagercoil.

... Respondents/Defendants

This Petition came up before this Court on 13.06.2023, in the presence of Thiru.C.Selvaraj, Advocate for the Petitioner/2<sup>nd</sup> Defendant and Thiru.N.Srinivasan, Advocate for the respondent and upon hearing both side arguments and upon perusing the case records and having stood over till date for Consideration, this Court delivers the following:

**ORDER**

1. The Petitioner had filed the above Petition under Order XI Rule 12 CPC and Section 151 CPC seeking an order for the production of documents listed in the Petition, from the custody of the respondents/defendants.

2. The Petitioner is stated that the Kanyakumari District Collector's Office is located on the Kottar - Parvathipuram Road and on the Eastern side Junction of that office, is called Collectorate Junction, wherein four roads from four directions joins at the Junction, and the said junction is an important place in Nagercoil. Further the defendants are putting up a circle work in that junction, without following Government procedures and stipulations, they are carrying out Government works.

3. The Petitioner had filed the suit for declaration that the Nagercoil Collectorate Junction Circle Work initiated by the defendants 1 to 3 is illegal, arbitrary and without following the due process of law. The Petitioner had also sought for Mandatory Injunction directing the defendants remodel the Collectorate Junction Circle Work, in a neat tidy and useful manner and for Permanent Injunction.

4. Further in the above suit, after receipt of notice in Interlocutory Application and entering appearance, the respondents started the Nagercoil Collectorate Junction Circle Work by deploying men and machinery. The respondents' are doing the Work on the basis of material, under their custody. The work related documents have to be produced before this Court, as they are

relevant documents, for the proper elucidation of the issues, involved in the suit, since, those documents could not be available with ordinary citizen like the Petitioner. The respondent has to be directed to produce those documents.

5. The 2<sup>nd</sup> respondent filed counter stating that the Petition lacks bonafides and that the defendants are carrying out the Circle Works as per IRC 65:2017 "Guidelines for Planning and design of Roundabouts". There is no violation in carrying out these Circle Work in Collectorate Junction.

6. Further the suit is false and frivolous and against the Government policy. The respondents are not carrying out the Circle Work as their whims and fancies. The work related documents sought by the Petitioners can be produced by the Petitioners on their own effort. The Petitioners being the master of the case, have to prove their case on their own legs, not on the loophole of the defendants' case. The documents sought for, by the Petitioners are public documents and as such the Petitioners can produce those documents, on their own effort. As such the Petitioners cannot compel the respondents to produce the documents sought for, in the Petition. Hence the 2<sup>nd</sup> respondent prayed for dismissal of the above Petition.

7. The Respondents 1, 2 & 4 have also filed counter as similar of the 2<sup>nd</sup> respondent's counter. The 3<sup>rd</sup> respondent was set exparte.

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

9. The Petitioner had filed the above suit under Section 91 of Code of Civil Procedure by valuing the suit prayer “b” at Rs. 1000/- and suit prayer “c” at Rs. 1000/- and suit prayer “c” as not capable of valuation and by paying Court fee of Rs.200/- paid towards it. Originally the suit was filed before the Hon’ble Principal District Court, Kanyakumari, at Nagercoil. By order dated 06.09.2022, the Hon’ble Principal District Court had returned the Plaint stating that the lowest Court competent to try the suit is the District Munsif Court, Nagercoil. Hence the suit was filed before this Court and taken on file.

10. Further in the above Petition, the documents sought to be produced by the respondents are documents available with the respondent authorities. The respondents have also not specifically denied or stated as if those documents are not within their authority. On the other hand, the respondents have contended that the documents sought to be produced are public documents and as such the Petitioners could produce the same, on their own effort.

11. Further, since the respondents have not claimed any privilege for not producing those documents and for the reason that the very suit has been filed challenging the Circle Work, initiated by the defendants as arbitrary without following due process of law, it would be the onus/burden of the respondents/defendants to prove that the Circle Work is done in accordance with rules and regulations, by adhering to due process. As such, the documents sought to be produced are relevant for due adjudication of the above suit. Hence

allowing the above application is not detrimental to the respondents/defendants, rather the same will facilitate proper and due adjudication of the suit.

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

Dictated to the Typist, and typed by her, corrected and pronounced by me, in open Court this, the 1<sup>st</sup> day of July 2023.

I Additional District Munsif,(FAC)  
Nagercoil.

Petitioners side witnesses and documents : Nil

Respondents side witnesses and documents : Nil

I Additional District Munsif,(FAC)  
Nagercoil.