

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

Present: Thiru. R. Sundara Kamesh Marthandan, M.L.,

I Additional District Munsif, Nagercoil

Tuesday, on the 28th day of January 2025

I.A.No. 5 of 2024 in I.A. No. 3 of 2021

&

I.A.No. 6 of 2024 in I.A. No. 2 of 2021

&

I.A.No. 7 of 2024 in I.A. No. 3 of 2021

&

I.A.No. 8 of 2024 in I.A. No. 2 of 2021

in

O.S.No.256 of 2021

CNR No. TNKK04-000330-2021

Sivakumar

... Petitioner / 2nd Respondent

-VS-

1. Muthulingam

... Respondent/Petitioner

2. Pitchakala Swamy Kovil

Rep.by its President, D.Iyappan.

3. Thiruvaduthurai Aathinam,

Rep. by its Inspector.

... Respondents/Respondents 1 & 3

These Petitions came before this Court today i.e. 28.01.2025, Mr. Sahayadhas, Learned Counsel for the Petitioner, Mr. K.Subaharavel, learned Counsel for the 1st Respondent, Mr. Balaganesan for the 2nd Respondent and Mr. Kumaran Nair for the 3rd Respondents. The 2nd and 3rd Respondents were set exparte. Upon hearing the 1st

Respondent's Counsel and upon perusing the case records, this Court hereby delivers the following:

COMMON ORDER

1. The Petitioner had filed I.A. No. 5 of 2024 under Section 151 Code of Civil Procedure, seeking an order to reopen the Commission Petition in I.A. No. 3 of 2021.

The Petitioner had filed I.A. No. 6 of 2024 under Section 151 Code of Civil Procedure seeking an order to reopen the injunction Petition in I.A. No. 2 of 2021.

The Petitioner had filed I.A.No. 7 of 2024 under Section 151 Code of Civil Procedure seeking an order to receive the Petition schedule documents in I.A. No. 3 of 2021.

The Petitioner had filed I.A. No. 8 of 2024 under Section 151 Code of Civil Procedure seeking an order to receive the Petition schedule documents in I.A. No. 2 of 2021.

2. In the affidavit filed in the support of the above Petitions, the Petitioner had stated that during the enquiry in the Interlocutory Application in I.A. No. 2 of 2021 and Commission Application in I.A. No. 3 of 2021, the Petitioner/2nd Defendant could not elucidate the pathway on the Northern side of 'A' schedule property, through documentary evidence. The Petitioner realized that the document relating to the pathway of 'A' schedule property, was not filed in those Interlocutory Applications, inadvertently. Hence those Interlocutory Applications have to be reopened and the Petition schedule documents have to be received.

3. The 1st Respondent/Plaintiff had filed counter affidavits and Adoption

Memos. In the counter filed by the 1st Respondent/Plaintiff, he had stated that the application is unsustainable under law, frivolous and vexatious and filed in order to drag on the proceedings. Since the Defendants 1 to 3 are defending the suit as against the Plaintiffs without any rival claim against amongst them, the 2nd Defendant had now come up with the above Petitions, without any necessity. Hence the 1st Respondent/Plaintiff had prayed for dismissal of the above Petitions. The 1st Respondent/Plaintiff had also submitted that the Petitioners have filed photocopies of those documents, hence they could not be received. Those documents could not be considered, without examining the competent witnesses. They have been filed with intent to protract the proceedings. Hence the 1st Respondent/Plaintiff prayed for dismissal of the above Petitions.

4. The point for consideration is Whether the above Petitions have to be allowed or not ?

5. On perusal the suit is in the stage of framing of issues insofar as Interlocutory Application No. 2 of 2021 and 3 of 2021 that same were heard and posted for orders. During such time the above Petitions have been filed. Since Issues have not been framed and Trial has not commenced and that the documents are sought to be received for enquiry, in the Interlocutory Applications i.e. I.A. No.2 of 2021 and I.A. No. 3 of 2021, they could be received, subject to proof and relevancy, since even after framing of issues. The Petitioner will have an opportunity to produce list of documents and witnesses. The same need not be restricted now.

In the result,

I.A. No. 5 of 2024 is allowed. No cost.

I.A. No. 6 of 2024 is allowed. No cost.

I.A. No. 7 of 2024 is allowed. No cost.

I.A. No. 8 of 2024 is allowed. No cost.

Dictated to the Steno-Typist, transcribed and typed by her in the Computer, corrected and pronounced by me, in open Court this, the 28th day of January, 2025.

I Additional District Munsif,
Nagercoil.

Petitioners' side witnesses & documents : Nil.

Respondent's side witnesses & documents : Nil.

I Additional District Munsif,
Nagercoil.

*I ADMCourt, Nagercoil.
Draft/Fair Common Order in
I.A.No.5/2024 & I.A.No.6/2024 &
I.A.No.7/2024 & I.A.No.8/2024 in
O.S.No. 256/2021
Date:28.01.2025.*