

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

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,
II Additional District Munsif, Nagercoil.

Monday, on the 24th day of November, 2025.

I.A. No. 4 of 2025 in O.S. No. 2 of 2025

CNR No.TNKK04-000003-2025

Jermans

... Petitioner / Plaintiff

-vs-

Xavier Antony

... Respondent / Defendant

This petition came before this court on 20.11.2025 for a final hearing in the presence of Mr. A. Siva, Advocate for the Petitioner / Plaintiff and Mr. R. Arumugaperumal, Advocate for the Respondent / defendant 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 XIII Rule 9 and Section 151 of the Code of Civil Procedure, seeking to return to the petitioner / plaintiff the original Sale deed document No.3063/1999 dated 27.12.1999 in the name of petitioner / plaintiff which was registered before the Kottaram Sub Registrar Office which is produced along with the plaint.

2. Gist of Averments in the Petitioners / defendants Petition :I am the

The petitioner is the plaintiff in this suit. The petitioner that the plaint 'A' schedule property belongs to petitioner by way of sale deed which was registered in favour of petitioner as document No.3063/1999 dated 27.12.1999 before Kottaram Sub Registrar Office, Kanyakumari District. The petitioner that before filing this suit, petitioner have already started work the construct a house on the plaint 'A' schedule property after obtaining building plan approval from the Manakudi Panchayat. The said building plan approval is also produced along with the plaint as document No.8.

3. The petitioner that due to financial problem while completing the house construction work, petitioner decided to obtain a loan from bank for which the above mentioned plaint 'A' schedule property original document is required (ie.) plaint list of document No.1. The petitioner that petitioner have obtained the attested copy of document No.3063/1999 and its sketch (attested copy) from the Kottaram Sub Registrar Office and the same is produced herewith this application.

4. For the above said reason of taking bank loan, the original document in petitioner's name which was registered as document No.3063/1999 dated 27.12.1999 before Kottaram Sub Registrar Office that petitioner have produced along with the plaint list of documents serial No.1 may be returned to petitioner otherwise, petitioner will be put into irreparable loss and sufferings.

5. The petitioner undertake to produce the above said original document No.3063/1999 as and when required or as directed by this court. There is no prejudice cause to the other side while return the above said original document belongs to petitioner and producing the attested copy of the same before this court. Returning of the above said document will also not affect the adjudication of this suit. Hence, this petition is to be allowed.

6) **Gist of Averments in the Respondent's Counter:**

The petitioner has filed the suit for demarcation and fixation on boundary by metes and bounds and also for prohibitory and mandatory injunction against the respondent. It is further submitted that, the 'B' relief sought for in the suit by the petitioner / plaintiff is to grant permanent injunction restraining the defendant and their men from constructing, disturbing or encroaching the usage of the 12 feet width pathway from north to south direction on the eastern side of the plaint 'A' schedule property. A detail written statement was filed by respondent for the main suit and respondent crave leave of this court to treat the written statement as part and parcel of this affidavit.

7. It is further submitted that, the suit ripped for trial and at the stage the petitioner / plaintiff has come forward this application for return of the original sale deed document No.3063/1999 dated 27.12.1999. The reason adduced for returning the above document is that due to financial problem while completing the house construction works, the petitioner / plaintiff decided to

obtain a loan from Bank the said document is required. The dispute between the parties in the suit with regard to the portion of property as pathway and demarcation of boundaries. Without demarcating the plaintiff's property, the petitioner / plaintiff could not fix the boundary to execute any further documents and also, on the strength of this suit the petitioner / plaintiff had completed the construction during the pendency of the suit. So, if this court allowing the application on accepting the contentions raised in the affidavit will cause injury to the respondent / defendant. Hence, the application is lack of bonafide or any good faith. Hence, the application filed by the petitioner / plaintiff is deserved to be dismissed at the threshold. Hence, to accept the counter and dismissed the petition.

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

9) Point:

Heard both sides. Records perused. The petitioner is the plaintiff in the suit filed for demarcation and fixation on boundary by metes and bounds and also for prohibitory and mandatory injunction against the respondent and to the 'B' relief sought for in the suit by the petitioner / plaintiff is to grant permanent injunction restraining the defendant and their men from constructing, disturbing or encroaching the usage of the 12 feet width pathway from north to south direction on the eastern side of the plaintiff 'A' schedule property. The petitioner

claims to be the owner of the 'A' schedule property, as evidenced by sale deed bearing Doc.No.3063/1999 dated 27.12.1999 executed in her name. The petitioner has already submitted a building plan which is approved by the Manakudi Panchayat and has commenced construction, showing her bonafide interest in developing the property since the original deed is needed by her to obtain a bank loan, without which the petitioner may face irreparable financial loss. Importantly, the petitioner has provided an attested copy of the same document, along with its sketch, so that the court continues to have a record of her title. Furthermore, the petitioner also undertakes to produce the original on demand, indicating her willingness to co-operate fully with the court's proceedings.

10. On the other hand, this court could observe that returning the document will cause no prejudice to the respondent as the respondent's interest in the case of demarcation, pathway dispute, injunction will not be impaired, because the court already holds attested copy of the deed produced by the petitioner along with this petition. Therefore, adjudication will proceed on merits, unaffected by whether the original stays with the court or is returned.

11. Further, it is settled principle that a court may return a document before final disposal if the applicant delivers a suitable certified copy in substitution and undertakes to produce the original when required.

12. In view of above facts, circumstances and discussion, this court is inclined to return the original document No.3063 of 1999 by taking into file the produced attested copy of the original document subject to the condition to produce the original when required by the court. In the light of above facts, this court is inclined to allow this petition.

As a result,

This petition is allowed, No cost.

Dictated to the steno-typist, typed by her in the Computer directly, printed, corrected and pronounced by me in open court this the 24th day of November, 2025.

II Additional District Munsif
Nagercoil.

List of witness and documents for Petitioner side : Nil

List of witness and documents for Respondent side : Nil

II Additional District Munsif
Nagercoil.

*II ADM, Nagercoil.
Draft/Fair Order
I.A.No.4/2025 in
O.S.No.2 of 2025
Date: 24.11.2025.*