

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

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,

II Additional District Munsif, Nagercoil

Wednesday, on the 11th day of June, 2025.

I.A. No.5 of 2024 in O.S.No.250 of 2015

CNR No.TNKK04-000405-2015

S. Sheeja ... Petitioner / Addl 3rd Plaintiff

-vs-

1. The Joint Commissioner, H.R. & C.E.

2. The Executive Officer,

Arulmigu Subramonia Swamy Temple,
Tiruchendur.

3. The Commissioner,

Nagercoil Corporation.

... Respondents / Defendants

This petition came before this court on 10.06.2025 for a final hearing in the presence of Mr. L. Rajathurai Advocate for the Petitioner / 3rd Plaintiff, and in the presence of Mr. R. Arumugaperumal Advocate for the 2nd respondent and in the presence of Mr. A. Samuel Edwin Advocate for the 3rd respondent and and in the presence of C. Johnson, Government Pleader for the 1st respondent counter not filed, set exparte in this petition 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 have filed the above petition Under Order VI Rule 17 and Section 151 of the Code of Civil Procedure, seeking to permit the petitioner/addl. 3Rd plaintiff to carry out the following amendments in the plaint.

Gist of Averments in the Petitioners/Plaintiffs Petitions :

2. The Petitioner is the Addl. 3rd Plaintiff in this suit. Originally, petitioner's father and mother had filed this suit for an injunction and other reliefs. After the demise of petitioner's father and mother, petitioner was impleaded as the addl. 3rd plaintiff. The petitioner submit that petitioner's father and mother had filed a detailed pleading. However, they failed to seek the relief of declaration. The petitioner submit that petitioner's parents purchased the property and even though the document was registered at Parasalla that will not affect our right over the property. The petitioner submit that petitioner's father and mother had not executed any document and she became the owner of the property by succession. The petitioner submit that the act of the defendants, created a cloud over petitioner's title to the property. Under these circumstances it is just and necessary to permit petitioner to carry out the necessary amendments to seek the prayer for declaration of title. If not, so much prejudice will be caused to petitioner. Further, the petitioner that the proposed amendments will neither alter nor change the character of the suit in any manner. Already a petition for this relief is filed and the same is returned by this court.

However the said petition is misplaced. Hence, this petition is to be allowed.

Gist of Averments in the 2nd Respondent's Counter:

3) The 2nd respondent had filed a counter stating that the 2nd respondent is working as Executive Officer Grade I, Tamil Nadu Hindu Religious and Charitable Endowment Department. The 2nd respondent was conducting the cases on behalf of the Temple Management, Executive Officer/Thakkar, Sri Subramonia Swamy Temple, parvathipuram Udamoottu Dharmam. The 2nd respondent conserved with the facts of the case through files. It is submitted that G.Soman and another have filed the suit for injunction alone and after filing a detailed written statement, the trial was duly commenced and finally the case stood posted for arguments on 03.10.2024. At this juncture the petitioner as addl. 3rd plaintiff filed the interlocutory application to implead herself as party due to the demise of her parents and impleaded as per order in I.A.No.2 of 2022. Now, the petitioner has filed the petition for seeking a relief of amendment of plaint. The amendment is not maintainable in law and facts, since the amendment sought by the petitioner is post-trial amendment, incorporating the relief of declaration of title. If the amendment is allowed that leads to have a re-trial or De nova trial in this matter.

4) It is further submitted that, alleged in the petition that the parents of the 3rd defendant purchased the property and derived title over the property

having extent of 2.333 cents alone. In the suit a building bearing No.301/1 also part and parcel of plaint schedule property. As per the amendment Act 6 of 2017 in Tamil Nadu Court Fee and Suit Valuation Act 1955, the court fee is calculated and paid by the petitioner, the value to be determined also be based on the very same amended act. As such the market value for the plaint schedule property must be determined on the basis of guide line value fixed by the appropriate authority under the respective statute. The copy of guide line and property value fixed and published in the web-portal of the registration department is filed herewith. It is submitted that the value is not properly valued and relevant Court fee is not at all arrived at by petitioner for the prayer of the declaration and also exceeds the pecuniary jurisdiction of this court. The petitioner/3rd plaintiff did not approach this Court with clean hands and suppressed the actual value of the property. It is submitted that the evidences of the parties to the suit are all closed by this Court and at this stage, the petition for amending the plaint drastically is not at all maintainable and has to be dismissed at the threshold. The petition is vexatious and filed with the view to drag on the proceeding especially the case was posted for arguments. Hence, the 2nd respondent pray that to accept this counter and dismiss the petition with costs.

Gist of Averments in the 3rd Respondent's Counter:

5) The 3rd respondent had filed a counter stating that the petition is not maintainable in law and on facts. There is no merit in the affidavit and petition. It is submitted that the amendment sought for in petition are not allowable. There is no bonafide averment in the affidavit. Hence, the 3rd respondent pray that to accept this counter and dismiss the petition with costs.

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

7) Point:

Heard both sides. Records perused. The petitioner stated that the petitioner's father and mother had filed a detailed pleading. However, they failed to seek the relief of declaration. The petitioner's parents purchased the property and even though the document was registered at Parasalla that will not affect our right over the property. Also, The petitioner's father and mother had not executed any document and petitioner became the owner of the property by succession. The petitioner further stated that the act of the defendants created a cloud over petitioner's title to the property.

8) On the other hand, the learned respondents counsel argued that the parents of the 3rd defendant purchased the property and derived title over the property having extent of 2.333 cents alone. In the suit a building bearing

No.301/1 also part and parcel of plaint schedule property. As per the amendment Act 6 of 2017 in Tamil Nadu Court Fee and Suit Valuation Act 1955, the court fee is calculated and paid by the petitioner, the value to be determined also be based on the very same amended act. As such the market value for the plaint schedule property must be determined on the basis of guide line value fixed by the appropriate authority under the respective statute. The copy of guide line and property value fixed and published in the web-portal of the registration department is filed herewith. It is submitted that the value is not properly valued and relevant Court fee is not at all arrived at by petitioner for the prayer of the declaration and also exceeds the pecuniary jurisdiction of this court. It is submitted that the evidences of the parties to the suit are all closed by this Court and at this stage, the petition for amending the plaint drastically is not at all maintainable and has to be dismissed at the threshold. The petition is vexatious and filed with the view to drag on the proceeding especially the case was posted for arguments.

9) On perusal of the records, the subject matter of this petition exceeds the pecuniary jurisdiction of this court due to the enhanced guideline value associated with the plaint schedule property in Old Survey No.3147 (Re-Survey No.G1/94, 97). Hence, allowing this petition will amount to lack of pecuniary jurisdiction. Moreover, It is pertinent to point out that the present petition has been filed at the post trial stage, after the substantial portion of evidence has

already been led and posted for arguments. At such an advanced stage of litigation, introducing fresh relief or shifting jurisdiction amounts to an abuse of the process of the court and results in unnecessary delay and prejudice to the opposing party.

10) Hence, in the light of above facts and in the interest of justice, this petition is dismissed.

11) As a result,

This petition is dismissed. No cost.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 11th day of June 2025.

II Additional District Munsif
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil.

*II ADM, Nagercoil.
Draft/Fair Order
I.A.No.5/2024 in
O.S.No.250/2015
Date: 11.06.2025*