

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

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

II Additional District Munsif, Nagercoil.

Tuesday, on the 17th day of June, 2025.

I.A. No. 11 of 2025 in O.S. No. 92 of 2011

CNR No.TNKK04-000538-2011

Sundarlingam

... Petitioner / Plaintiff

-vs-

1. Rajavel

2. The Commissioner,

Nagercoil Municipal Corporation.

3. The District Collector

... Respondents / Defendants /

3rd respondent / proposed party

This petition came before this court on 13.06.2025 for a final hearing in the presence of Mr. K. Subhakaravel, Advocate for the Petitioner / Plaintiff and and Mr. T. Jeyachandran, Advocate for the 1st Respondent / 1st Defendant, counter not filed, set exparte and Mr. A. Samuel Edwin, Advocate for the 2nd Respondent / 2nd defendant and Mr. C. Johnson, Government Pleader for the 3rd Respondent / 3rd defendant / Proposed party 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 1 Rule 10 (2) of Code of Civil Procedure, seeking to pass an order to implead the person whose name and address stated below as additional 3rd defendant in this case.

Gist of Averments in the Petitioner / Plaintiff Petition :

2) The petitioner is the plaintiff in this case and well acquainted with the facts deposed hereunder. The petitioner had filed this suit for declaration of title over the plaint 'A' schedule property and for injunction restraining the defendants from disturbing the peaceful possession and enjoyment of the plaint 'A' schedule property and from encroaching the 'A' schedule property and annex the same with the plaint 'B' schedule property and putting up tar. The petitioner that originally, petitioner have filed the suit against the 1st defendant and the Executive Officer of the Thengamputhur Panchayat. Since the area of Thengamputhur Panchayat has been amalgamated with area of Nagercoil Municipal Corporation, petitioner was put into necessity of filing petition to substitute the Commissioner of Nagercoil Municipal corporation in the place of 2nd defendant and petitioner filed the same. This court has allowed this application as per the order passed in I.A.No.5 of 2023 dated 15.03.2024. The petitioner humbly submit that since the commissioner of Nagercoil Municipal Corporation is a Government Officer, the District Collector of Kanayakumari District is also a necessary and proper party to be impleaded in this case for just

and proper disposal of this case. The petitioner that if the District Collector is not added as party to be suit, the suit will become non-jointer of necessary party and as such, petitioner will be put into irreparable loss and hardship. Hence, it is prayed that this court to pass an order to implead the District Collector of Kanyakumari District as additional 3rd defendant in this cse in the interest of justice. Hence, the petition is to be allowed.

Gist of Averments in the 3rd Respondent had filed a counter, and the same has been adopted by the 2nd Respondent:

3) The 3rd Respondent had filed a counter stating that all the averments is the affidavit in support of the implead petition except those that are specifically admitted or otherwise dealt hereunder shall be deemed to be denied by this respondent. There is no sufficient ground entertain this petition at this state. The averments contained in the affidavit filed in support of the petition are not correct and hence denied. The petition that has been filed by the petitioner to implead the Additional 3rd defendant in the suit is not at all maintainable in law or on facts. The petition lacks bonafide and is liable to be dismissed. This petition filed by the petitioner is belated one and was filed with the intention to prolong the suit proceedings. The petitioner has not come forward with clean hands. Hence to accept the counter and dismissed the petition.

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

5) Point:

Both sides heard. Records perused. The petitioner / plaintiff had filed this suit for declaration of 'A' schedule property and for Permanent injunction. Originally, the petitioner / plaintiff had filed the suit against the 1st defendant and the Executive Officer of the Thengamputhur Panchayat as a 2nd defendant. Further, the 2nd defendant was substituted by the Commissioner, Nagercoil Municipal Corporation as per I.A.No. 5 of 2023. The petitioner claims to implead the District Collector, Nagercoil as necessary party since already substituted 2nd defendant, the Commissioner of Municipal, Nagercoil is a Government Officer. Considering the fact that the substituted 2nd defendant is the Commissioner of Nagercoil Municipal Corporation and is functioning in an official capacity as a Government Officer, this court is of the view that the District Collector, Kanyakumari District, is necessary for the complete and effective adjudication of the issues involved in the suit. The grievance raised in the suit pertains to an alleged attempt by the panchayat to encroach upon the plaintiff's 'A' schedule-mentioned property by laying a tar road, which involves issues concerning governmental authority, land administration, and local governance. As such, the District Collector, being the administrative head of the district and having supervisory jurisdiction over both municipal and

panchayat bodies, is a proper and necessary party to the proceedings. Hence, this court is inclined to allow this petition.

As a result, this petition is allowed, 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 17th day of June 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. 11/2025 in
O.S.No.92/2011
Date: 17.06.2025.
II ADM Court, Nagercoil.