

**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 17<sup>th</sup> day of June, 2025.

**I.A. No. 12 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

... Respondents / Defendants

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 1<sup>st</sup> Respondent / 1<sup>st</sup> Defendant, counter not filed, set exparte and Mr. A. Samuel Edwin, Advocate for the 2<sup>nd</sup> Respondent / 2<sup>nd</sup> 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 16 Rule 12 of Code of Civil Procedure and 75 of CR.P.C, seeking to permit the petitioner to examine the witnesses scheduled hereunder by producing the documents stated below in the interest of justice.

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 the plaintiff has derived the title over the plaint 'A' schedule property through a registered partition effected among the father and brother of the plaintiff on 16.01.1976 through the Edalakudy Sub-registry as document No.20/1976. The petitioner that the anterior title holders of the plaint 'A' schedule property were had title over 13 cents of property. Hence, the settlement land register and old plan, and the old 'A' register are disclosing the extent of the plaint 'A' schedule property as 13 cents.

3) The petitioner that now without any transfer of land acquisition the government officials are saying that petitioner was having lesser area than the area available in petitioner previous and present title deeds. Hence, in order to clear the dispute and vindicate petitioner case the production of old settlement register, old plan, and old 'A' register is highly essential by the witnesses whose name and address stated below. The petitioner that if the document listed are not produce and the witnesses scheduled hereunder are not examine, petitioner will be put into irreparable loss and hardship. Hence, the petition is to be allowed.

**Gist of Averments in the 2<sup>nd</sup> Respondent's Counter:**

4) The 2<sup>nd</sup> Respondent had filed a counter stating that all the allegations and averments in the affidavit in support of the petition praying for to permit the petitioner to examine the witness scheduled in the petition and also to produce the documents save those which are specifically admitted hereunder shall be deemed to be denied. It is humbly submitted that the petition is not maintainable in law and on facts. It is submitted that it is the duty of the petitioner / plaintiff to prove his case and the petitioner is not entitled to get any reliefs on the basis of his document No.20/1976 dated 16.01.1976 of Edalakudy Sub Registry. The averments in paragraphs 4 and 5 of the affidavit are concerned it is submitted that, the resurvey operation was finalized in Kanyakumari District several decades ago and hence the petitioner is not entitled to claim any relief on the

basis of the old survey which was already become in effective. Therefore, the petitioner is entitled only for the properties as available in the revenue records, on the basis of the resurvey which was finalized long back. The averments in the 4<sup>th</sup> and 5<sup>th</sup> paragraph of the affidavit are in no way helpful to the petitioner's case and already sufficient opportunities were given to the petitioner to prove his case and the documents sought for in this petition were already become ineffective in view of the resurvey operation. There is no merit in this petition. Only to delay and drag on the proceedings, this petition is filed. Hence to accept the counter and dismissed the petition.

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

6) Point:

Heard both sides. Records perused. The petitioner / plaintiff had filed this suit for declaration of 'A' schedule property and for Permanent injunction. The plaintiff claims title to the plaint 'A' schedule property through the registered partition deed, asserting that the anterior title holders were holding over 13 cents of land. However, it is the plaintiff's grievance that, without any formal process of land acquisition or transfer, government officials are now contending that the extent of land available to the plaintiff is less than what is reflected in both the earlier and present title deeds. In order to substantiate the plaintiff's claim and to clarify the extent and identity of the property, production

of crucial public records such as the old Settlement Land Register and old 'A' Register seems to be necessary. For this purpose, the examination of the scheduled witnessess namely, the Chief Assistant (General) of the relevant Taluk Office, the deputy Tehsildar, District Collector Office, Nagercoil, Kanyakumari District and the Director of the Tamil Nadu Archives (Madras Record Office) for producing the old plan relating to Survey No.3407 is vital. In the light of above facts, t his 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 17<sup>th</sup> 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. 12/2025 in*  
*O.S.No.92/2011*  
*Date: 17.06.2025.*  
*II ADM Court, Nagercoil.*