

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI

Present : Selvi.A.Yughathymariya, B.Com, L.L.B.(Hons.,)

Additional District Munsif, Kulithalai.

Dated Friday, the 25th day of July 2025

I.A No.08/2025in O.S No.52/2016

- 1) Marimuthu as Family Manager
- 2) Chinnathurai@ Muthu Krishnan
- 3) Natarajan
- 4) Amirthasamy @ Sundaram

...Petitioners/Plaintiffs

- Vs -

- 1) Malla Naicker(Died)
- 2) The Thasildar, Kadavur
- 3) The Revenue Divisional Officer, Kulithalai
- 4) The District Collector, Karur
- 5) The Commissioner
Land Administration, Chepauk, Chennai
- 6) Pappathi
- 7) Sekar
- 8) Neelavathi

...Respondents/ Defendants

This petition has come up for final hearing on 09.07.2025 before this court in the presence of Thiru.S. Imthiyas, the Learned Counsel appearing for the Petitioner, Respondent No.1 died, in the presence of Government Pleader Thiru. K.S.M. Sahul Hameed, the Learned Counsel appearing for the Respondents No. 2 to 5 and Respondents No.R6 to R8 called absent, set exparte and upon perusal of material records and having stood over for consideration till this day, this court delivers the following:

ORDER

- 1) This petition is filed under Order 11 Rule 16 r/w Section 151 of CPC in seeking permission of this Court to direct the Respondents to produce the original documents as mentioned in the petition.
- 2) The Respondent No.1 is died. The Respondents No.6 to 8 were already set exparte.

Brief averments in the affidavit are as follows:

- 3) The 1st Petitioner stated that he is the 1st Plaintiff in the above suit and he is filing this affidavit on behalf of the other Petitioners as well. This Petitioner knows the facts of the above case and the 2nd and 3rd Petitioners are his sons and the 4th Petitioner is his cousin.
- 4) The original documents which are mentioned in this petition are in the hands of the Respondents and the xerox copies of the same are only available with this Petitioners. If this documents are produced before this Court, the truth will come out. Those documents are very important to prove the case of the Petitioners/Plaintiffs. If this petition is not allowed, it will cause irreparable loss to the Petitioners. Hence, for proper adjudication and in the interest of justice the Petitioner prayed this Court to allow this petition thereby directing the Respondents to produce the original documents as mentioned in the petition.

Brief averments in the counter objection filed by the Respondents No.2 to 5:

- 5) This petition is unsustainable and not maintainable either in law or on facts and the Petitioners are not entitled to the relief sought for in this petition. All the averments contained in the petition affidavit are all denied by this Respondents and the Petitioners are bound to prove the same.

6) The documents which are specified in the above petition are all public documents and the certified copies of the same can be obtained by the general public and by any person from the revenue officials by making application for the same before them, as provided under Section 74 and Section 76 of the Indian Evidence Act. In the above suit, already Plaintiff side evidence was closed and thereafter DW1 was chief examined on the side of the Defendants. Right now, the above suit was posted for the cross examination of DW1. Despite several opportunities given, these Petitioners/Plaintiffs are yet to cross examine the DW1. At this stage, without cross examining DW1, this petition has been filed by the Petitioners without any proper reason. In order to drag on the above suit, the Petitioners have filed this petition. This petition has no prima facie and without any reason this petition has been filed. Hence, this petition is liable to be dismissed with costs.

Evidence:

7) There is no oral and documentary evidence adduced on either side.

Point for determination:

8) Whether this petition is entitled to be allowed or not?

Discussion:

9) Heard both sides. Records perused. Upon perusal of records it is seen that the above suit has been filed by the Petitioners/Plaintiffs against the Respondents/Defendants for the relief of declaration of title in respect of the 1st and the 2nd item of the suit “A” schedule property and for the consequential relief of Permanent Injunction against the 1st Respondent/1st Defendant in respect of the said property and also for the relief of Permanent Injunction in respect of the “B” schedule property against the 1st Defendant and for the relief of Mandatory Injunction against the Defendants/Respondents No.2 to 5 to make necessary correction in the Patta given to the 1st Defendant.

10) It is the case of the Petitiones/Plaintiffs in the above suit is that the suit property in S.F.No. 1073/2 is the ancestral property of the Plaintiff's family which belonged to their grandfather Palaniyandi Pandaram by way of purchase through a registered sale deed dated 01.06.1959. It is also the case of the Plaintiffs that the suit property in S.F.No.1073/3 is the ancestral property of the said Palaniyandi Pandaram and the suit property in S.F.No.1073/4 which was situated abutting the south of S.F.No.1073/2 and 1073/3 was also in the possession and enjoyment of the said Palaniyandi Pandaram as one block. The Plaintiffs are the legal heirs of the said Palaniyandi Pandaram and they are living as hindu undivided family and the 1st Plaintiff is the head of the family and managing kartha.

11) Therefore the Plaintiffs claimed that the entire extent of the suit property in S.F.No.1073/2, 1073/3 and 1073/4 are all in the possession and enjoyment of the Plaintiff's family for more than statutory period and they have got title by adverse possession and got description of title even against the Government. The Plaintiff also claimed that the property in S.F.No.1073/4 has been offered to declare as "Anadeenam" by the Plaintiff's family for public use and to uplift downtrodden houseless people by keeping an extent of nearly Acre 0.50 Cents with them out of the total Acre 2.63 Cents.

12) It was also the case of Plaintiffs that the 1st Defendant is not the native of his village and he has come down as asylum under the plaintiff's Pannai and as a token of service, the 1st Plaintiff's father has executed a registered sale deed in favour of the mother of the 1st Defendant in S.F.No.1073/3E to an extent of Acre 0.65 Cents. However, the 1st Defendant on 10.03.2024 had quarraled with the Plaintiff and filed a case in O.S.No.116/2014 before this Court restraining this Plaintiff from pumping water through borewell which was erected by the Plaintiff by claiming a novel right in S.F.No.1073/5 and however it was pacified with the Panchayathadars.

13) Upon seeing the Patta to the property in S.F.No.1073/5 in the name of the 1st Defendant, this Plaintiff has approached the 3rd Defendant who forwarded the matter to

the 2nd Defendant and it has come to live that conspiracy was played by the 2nd Defendant colluding with the 1st Defendant in granting such Patta. The said Patta given to the 1st Defendant is fraud and fraudulent one and is null and void. By taking the said bogus Patta, the 1st Defendant attempted to trespass into the suit property by unrooting the borewell that was erected many years back. Hence this suit was filed for the above said relieves.

14) The 1st Defendant had admitted that the suit property in S.F.No.1073/2 belongs to the Plaintiff. However, he stated that the property in S.F.No.1073/3 has been sub divided into several sub-divisions and the property in S.F.No.1073/3E belongs to the 1st Defendant by way of purchase from the Plaintiff's family. However, in the suit "B" schedule property the Plaintiff's family had no right and they were never been in the possession of the same. This apart, this Defendant had denied all other allegations contained in the plaint. It was also the case of this Defendant is that the suit property in S.F.No.1073/4 has been sub divided into S.F.No.1073/4 as a Well and S.F.No.1073/5. The said property in S.F.No.1073/5 belongs to the father of the 1st Defendant and it has been in his possession and after his death, the 1st Defendant has been in the possession of the said property by way of obtaining Patta. In the said property in S.F.No.1073/5, the 1st Defendant is cultivating Groundnuts, Tapioca and has been in the possession of the same. He had also constructed a brick house under the Government's Green House Scheme and has been paying the HouseTax for the same.

15) It is the case of the Defendants No. 2 to 5 in the above suit is that they have denied all the allegations contained in the Plaint. However, they have admitted the fact that the Kulithalai Thasildar had given a possession certificate to the Plaintiffs' family stating that they are in the possession before the born of Kadavur Taluk.

16) This being the facts of this case, on the side of the Plaintiffs', the 1st Plaintiff was examined as PW1 and Ex.A1 to Ex.A9 were marked through him. On the side of Defendants No. 2 to 5, the Deputy Thasildar of Kadavur has been examined as DW1

and Ex.B1 to Ex.B4 were marked through her. Now, this suit was posted for the cross examination of DW1 on 11.03.2025. Despite several opportunities given to the Plaintiff, they have not yet cross examined DW1 but on 09.04.2025, have filed this petition, in order to direct the Respondents No.2 to 5/Defendants No.2 to 5 to produce the documents such as documents relating to old Bimash No.97/3, Zamindari records of S.F.No.1073 before and after UDR, settlement register, records of property in S.F.No.1073/4 which was declared as “Anadeenam” by the settlement officer, possession certificate, Government letter dated 10.04.2012 and the sub divisions records of S.F.No.1073. Upon perusal of the petition affidavit, it is seen that the Petitioner have claimed that the xerox copies of the above documents are only available and if those documents are produced before this Court, the truth will come out and they are necessary to prove the case of the Petitioners/Plaintiffs.

17) Per contra, the major objection placed by the Respondents No. 2 to 5 herein is that the documents sought in the petition for production are only public documents and they are very well can be obtained from the revenue authorities by way of applying for the certified copies of the same. But the Petitioners, without having taken any steps to apply for the certified copies of the same had straight away approached this Court for production of the said documents for their inspections and hence prayed to dismiss this petition.

18) The objection as placed by the Respondents No.2 to 5 is found acceptable as the Rule 75(3) of the Civil Rules of Practice and Circular Orders provides that no Court shall issue such summons for production of records in the custody of a public officer unless it considers the production of the original necessary which is satisfied that the application for a certified copies has been duly made and has not been granted.

19) However, in the **decision of the Hon’ble High Court of Madras in Chandra Vs. V.Venugopal @ V. Chandrasekaran in CRP (PD) No.2339 of 2017** it was observed by the Hon’ble Madras High Court that giving an advice to the

Petitioners/Plaintiffs to take recourse to Rule 75(3) of the Civil Rules of Practice does not lie on the District Munsif who found fault with the Petitioners for not having approached the competent authority probably, the Jurisdictional Thasildar to obtain certified copies of the Assignment Pattas and stated the production of xerox copies and issuance of notice under Order 11 Rule 16 of CPC would not suffice to strengthen the case of the Petitioners and rejected the said application. By applying the above observations to the case on hand, this Court is of the view that on the very basis of the fact that the Petitioners had not approached the revenue authorities in applying for the certified copies of the said documents, by itself does not bar this Petitioners to approach this Court to enforce their rights under Order 11 Rule 16 of CPC.

20) From the facts and circumstances of the above suit, it is seen clear that the Petitioners/Plaintiffs are claiming title over the property in S.F.No.1073/2 and 1073/3 and also Permanent Injunction in respect of the said property along with the property in S.F.No.1073/4 and 1073/5. Per contra, the 1st Defendant had denied the title of the Plaintiffs over the property in S.F.No.1073/3 and claimed the title and possession in respect of the property in S.F.No.1073/5. However, the 1st Defendant in the above suit was died. This apart, despite his legal heirs were impleade, they also remained exparte and failed to contest the Plaintiff's case. This being so, this petition has been filed requiring the Respondents No.2 to 5 to produce the documents, records, settlements registers etc., in respect of the property in S.F.No.1073. Also the Petitioners stated that they are only having the xerox copies of the same. They have nowhere stated in the petition affidavit that they have approached the revenue officials in getting the certified copies of the same and they have rejected the same. Also, the Petitioners claimed that in order to prove their case, the original of these documents are necessary. The reasons stated by the Petitioners in the petition affidavit are found sufficient and this Court also is satisfied that for complete adjudication of trial and to render complete justice, this petition has to be allowed.

21) However, this petition has been filed after a long delay at the stage when the above suit was posted for the cross examination of DW1. But, this Court is of the view that in order to render complete justice, such delay in filing this petition for production of the said documents for inspecting the same may be condoned to meet out the ends of justice and for complete adjudication of the trial of the above suit. Hence, this Court is inclined to allow this petition.

Result:

In the result, for all the reasons stated above and to meet out the ends of justice, this petition is allowed. The Petitioners are hereby directed to issue notice to the concerned Respondent with whom the said documents are available, in order to produce the same before this Court for inspection by this Petitioner, in the format as prescribed in Form No.7, in Appendix 'C' to the Code of Civil Procedure, by giving reasonable time to the Respondents concerned for the production of said documents. The Petitioner is also hereby directed to meet out the travelling expenses of the Respondents concerned for his appearance and production of the documents before this Court. No costs.

Dictated to my Steno-Typist and taken notes by her in shorthand and typed by her in the computer, corrected by me and pronounced by me in the open Court on this the 25th day of July 2025.

Sd/-A.Yughathymariya
Additional District Munsif,
Kulithalai.

Petitioner side witness and documents	-	Nil.
Respondents side witness and documents	-	Nil.

Sd/-A.Yughathymariya
Additional District Munsif,
Kulithalai.

