

IN THE COURT OF DISTRICT MUNSIF, BODINAYAKANUR.

PRESENT: Thiru.A.Mohamed Hashim, B.A., B.L.,
District Munsif,
Bodinayakanur.

Friday, the 05th day of June 2026

IA.No.1/2026

in

OS No.179/2023

Andavar

... Petitioner / Defendant

Vs

Karupasamy

...Respondent / Plaintiff

This petition came up on 29.04.2026 for final hearing, in the presence of Mr.N.Rajmohan, Learned Advocate for the Petitioner and in the presence of Mr.P.Raja, Learned Advocate for the Respondent. Upon perusing the case records and having stood over for consideration till this day, this Court hereby delivered the following.

ORDER

1. The defendant in the suit has filed the present petition under Order XVI Rule 1 of the Code of Civil Procedure seeking issuance of witness summons to the Village Administrative Officer, T. Meenakshipuram Village, to produce the revenue

records relating to the suit property, namely Patta, Chitta, Adangal and 'A' Register from 18.04.2005 onwards and also sought issuance of witness summons to the Branch Manager, ICICI Bank, Sankarapuram Branch, to produce the documents relating to the loan availed by the plaintiff by depositing the title deeds, including the Patta, Chitta, Adangal, 'A' Register and the legal opinion obtained by the Bank while sanctioning the said loan.

2. For ease of understanding, the parties are addressed as per their litigative status in the main suit.

3. The case of the defendant/petitioner in brief:-

i) The defendant has filed a counter claim seeking a declaration that the suit property belongs to him, for permanent injunction restraining the plaintiff from interfering with his peaceful possession and enjoyment of the suit property and for a declaration declaring the gift settlement deed dated 23.07.2004 executed by the plaintiff's father Gurusamy @ Chinnagurusamy in favour of the plaintiff as null and void.

ii) The defendant purchased the suit property from Gurusamy @ Chinnagurusamy by virtue of a registered sale deed dated 18.04.2005. After the purchase, the revenue records were mutated in the name of the defendant and Joint Patta No.1152 came to be issued in the names of the plaintiff and the defendant. Thereafter, a separate patta bearing No.13558 was issued in the name of the

plaintiff. Since the date of purchase, the suit property has been in the peaceful possession and enjoyment of the defendant.

iii) The Village Administrative Officer is a necessary witness to establish the possession and enjoyment of the defendant over the suit property. Therefore, the Village Administrative Officer has to be summoned to produce the Patta, Chitta, Adangal and 'A' Register relating to the suit property from the date of purchase of the defendant. The plaintiff had also obtained a loan by executing a Memorandum of Deposit of Title Deeds dated 13.08.2016. In the said document, Patta No.1152 dated 24.08.2016 has been referred to as one of the documents verified by the Bank officials. The said patta stood in the joint names of the plaintiff and the defendant. Therefore, if the Branch Manager, ICICI Bank, Sankarapuram Branch, is summoned and directed to produce the documents submitted by the plaintiff at the time of availing the loan, this Court would be in a position to ascertain whether the plaintiff was aware of the sale deed executed by her father in favour of the defendant as early as in the year 2016. Hence, the petition has to be allowed.

4.The case of the Plaintiff/Respondent in brief:-

i) The averments contained in the affidavit filed in support of the petition are denied. All the necessary documents relating to the suit property have already been produced and marked before this Court. Therefore, there is no necessity to summon any additional records as sought for by the defendant. The present petition is not

maintainable in law. If the defendant intended to summon public documents, he ought to have taken appropriate steps in accordance with Order 75 of the Civil Rules of Practice. Without following the prescribed procedure, the present petition has been filed and therefore the same is liable to be dismissed.

ii) During the course of cross-examination, the defendant has categorically admitted that the property situated on the eastern side of his property belongs to the plaintiff. In view of the said admission, the present petition has become unnecessary and is not maintainable. The allegation that the revenue records stand in the name of the defendant does not advance his case. The patta has been obtained by the defendant on the basis of forged documents. Mere mutation of revenue records would not confer or extinguish title. Therefore, no useful purpose would be served by summoning the records sought for in the present petition. Hence, the petition is liable to be dismissed.

5. The learned counsel for the defendant reiterated the averments set out in the affidavit filed in support of the petition. He would submit that the plaintiff was well aware of the execution of the sale deed by his father in favour of the defendant even at the time of its execution. He would further submit that while availing a loan from ICICI Bank, Sankarapuram Branch, the plaintiff had executed a Memorandum of Deposit of Title Deeds and had furnished the encumbrance certificate, patta and other revenue records relating to the suit property before the Bank. The learned

counsel would further submit that the Bank had also obtained a legal opinion with respect to the title of the suit property before sanctioning the loan. According to him, if the Branch Manager of the Bank is summoned and directed to produce the documents submitted by the plaintiff as well as the legal opinion obtained by the Bank, the same would establish that the plaintiff had knowledge of the sale deed executed in favour of the defendant much prior to the institution of the suit.

6. The learned counsel for the defendant would further contend that the said documents are relevant for deciding the issue of limitation raised by the defendant and therefore the production of those documents is necessary for the just adjudication of the dispute. He would further submit that no prejudice would be caused to the plaintiff by summoning the said witnesses and documents, since the plaintiff would have every opportunity to cross-examine the witnesses and explain the documents sought to be produced. Hence, he prayed for allowing the petition.

7. *Per contra*, the learned counsel for the plaintiff reiterated the averments set out in the counter affidavit and would submit that the present petition is not maintainable either in law or on facts. He would further submit that the Memorandum of Deposit of Title Deeds relied upon by the defendant has already been marked as Ex.B3 in the suit. He would further submit that it is well settled that revenue records do not confer title. According to him, even assuming that the revenue records stand in the name of the defendant, the same would not advance the

case of the defendant, particularly when the plaintiff has specifically alleged that such entries have been obtained on the strength of fraudulent documents. He would further submit that the documents sought to be summoned are neither necessary nor relevant for the effective adjudication of the issues involved in the suit and the present petition has been filed only with an intention to protract the proceedings and is nothing but an abuse of the process of Court. Hence, he prayed for dismissal of the petition.

8. This court carefully considered the rival submissions and perused the materials available on records.

9. Upon perusal of the records, it could be seen that the plaintiff has filed the suit seeking a declaration that the suit property measuring 41 cents comprised in Survey No.112/15 absolutely belongs to the plaintiff, for consequential permanent injunction restraining the defendant from interfering with his peaceful possession and enjoyment of the suit property and for a declaration declaring the sale deed dated 18.04.2005 executed by the plaintiff's father in favour of the defendant as null and void.

10. The defendant has filed a counter claim seeking a declaration that the property measuring 41 cents comprised in Survey No.112/15B belongs to the defendant, for consequential permanent injunction restraining the plaintiff from interfering with his peaceful possession and enjoyment of the property and for a

declaration declaring the settlement deed dated 23.07.2004 executed by the plaintiff's father in favour of the plaintiff as null and void.

11. The trial in the suit has already commenced. On the side of the plaintiff, the plaintiff was examined as PW1 and Ex.A1 to Ex.A4 were marked. One Subbammal was examined as PW2 and Ex.A5 and Ex.A6 were marked through her. On the side of the defendant, the defendant was examined as DW1 and Ex.B1 to Ex.B10 were marked through him. The defendant has also been cross-examined in full. At this stage, the present petition has been filed seeking issuance of witness summons to the Village Administrative Officer and the Branch Manager, ICICI Bank, Sankarapuram Branch.

12. On perusal of the pleadings and issues involved in the suit, it is seen that the core dispute between the parties revolves around the validity of the settlement deed dated 23.07.2004 executed by Chinnagurusamy @ Gurusamy in favour of the plaintiff and the subsequent sale deed dated 18.04.2005 executed by the very same person in favour of the defendant. The plaintiff would contend that by virtue of the settlement deed dated 23.07.2004, title over the suit property had already vested with him and therefore the executant had no subsisting right to execute the subsequent sale deed in favour of the defendant. On the other hand, the defendant would contend that the settlement deed is not genuine and was never acted upon.

13. If ultimately it is found that the settlement deed dated 23.07.2004 is genuine, valid and acted upon, the executant would have been divested of his right over the suit property on the date of execution of the subsequent sale deed dated 18.04.2005. In such event, the sale deed executed in favour of the defendant would not convey any title. The principle embodied in the maxim *nemo dat quod non habet* would squarely apply and the sale deed executed in favour of the defendant would be legally void.

14. The contention of the defendant is that the plaintiff was aware of the sale deed in favour of the defendant at least from the year 2016 while availing a loan from ICICI Bank, Sankarapuram Branch and therefore the suit is barred by limitation. This Court is unable to accept the relevance of the proposed evidence for deciding the present controversy. If the sale deed dated 18.04.2005 is ultimately found to be void on account of the prior settlement deed, the plaintiff, being a non-party to the said document, is entitled to ignore the same. A void document does not become valid merely because a person had knowledge of its existence. Therefore, even assuming that the plaintiff was aware of the sale deed while creating mortgage in favour of the Bank, such fact by itself would not advance the case of the defendant.

15. Likewise, the revenue records sought to be produced through the Village Administrative Officer would not by themselves confer title. The question as to who

is entitled to the suit property has to be decided primarily on the basis of the title documents relied upon by the parties and not on the basis of revenue entries. Therefore, this Court is unable to find any substantial relevance in the evidence proposed to be adduced through the Village Administrative Officer and the Branch Manager for deciding the real issues involved in the suit.

16. A conjoint reading of Order XVI Rule 1(2) and Rule 1(3) of the Code of Civil Procedure makes it clear that a party seeking issuance of witness summons must disclose the purpose for which the witness is sought to be examined and must also satisfy the Court regarding the necessity for summoning such witness. Where the application is filed after commencement of trial, sufficient cause must also be shown as to why the witness was not included in the list of witnesses filed earlier. Only upon being satisfied with such explanation can the Court permit summoning of additional witnesses.

17. In the present case, the petition does not disclose any satisfactory reason as to why the names of the Village Administrative Officer and the Branch Manager were not furnished at the appropriate stage. Though the defendant seeks production of certain documents, the petition does not disclose any compelling reason as to how the proposed evidence is necessary for adjudication of the real controversy involved in the suit. The requirements contemplated under Order XVI Rule 1(2) and Rule 1(3) CPC have therefore not been satisfied.

18. In view of the foregoing discussion, this Court is of the view that the defendant has failed to establish the necessity for issuance of witness summons to the Village Administrative Officer and the Branch Manager, ICICI Bank, Sankarapuram Branch. Accordingly, this petition is dismissed.

In the result, this petition is dismissed. No Cost.

Dictated to the steno typist, transcribed by her, corrected, and pronounced by me in open Court, this the 05th day of June 2026.

District Munsif,
Bodinayakanur.

IA 1/2026 in OS.No.179/2023 Fair / Draft Order Date: 05.06.2026.
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