

IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUPPUR

Present :- Thiru. K.R.Kannan,B.A., B.L.,
(JO.Code TN01220)
Additional Subordinate Judge,
Tiruppur.

Tuesday 14th day of October 2025

I.A. No. 7 / 2025

in

O.S.No. 396 / 2015

1. K. Manivannan
2. Usha

...Petitioners/ Plaintiffs

//Vs//

1. R. Maheswaran
2. P. Shanmugam
3. R. Muruganandam
4. P. Nagavijay
5. V.P. Velmurugan

..... Respondents/ Defendants

This Petition came before me on 13.10.2025 for the final hearing in the presence of Thiru. P.R. Rameshbabu, B.A., B.L., Advocate for the Petitioners/ Plaintiffs and Thiru.K.Sakadevan, M.Com., L.L.B., Advocate for the Respondent/Plaintiff and upon hearing both side arguments, and on perusal of available records, this court delivered the following...

// ORDER //

1. The Petitioners, who are the plaintiffs filed this petition Under Order XVI Rule 1(2) of CPC to issue summons to the Village Administrative Officer of Koduvai Village, Tiruppur to appear and depose evidence with regard to the report dated 03.11.2022 as prayed for in the petition with cost.

2. The averments stated in the affidavit filed by the petitioner is as follows :

2.1) The petitioners herein are plaintiffs in this suit.

2.2) The petitioners submit that they have filed for the relief of declaration to declare petitioners No.1 and 2 are the absolute owners of the properties described as Items Nos.1 and 2 respectively in the schedules of the plaint. Consequent to injunction restraining the respondents/ defendants interfering with the peaceful possession and enjoyment of the properties and to declare that the Sale deed dated 23.07.2002 (Registered as Document No. 1038 of 2002) on the file of Thottipalayam Sub Registrar Office and to declare the sale deed dated 28.09.2006 (Registered as Document No. 2725 of 2006 on the file of Thottipalayam Sub Registrar Office) and declare the sale deed dated 28.09.2006 (Registered as Document No. 2724 of 2006) and declare the sale deed dated 28.09.2006 as invalid, no nest and not binding.

2.3) The petitioners filed an application for recalling of Pw1 and for production of documents received by Petitioner No.1 under the right of the information act, the village Administrative Officer of Peruntholuvu village, Tiruppur has given a report to the Revenue Divisional Officer, Tiruppur with regard to the enquiry conducted by the Revenue Divisional Officer, Tiruppur for mutation of patta pertain to the suit property.

2.4) The petitioners further submit that since the report submitted by the the village Administrative Officer has to be marked only by the examination by the said VAO and asked to allow the petition with cost.

3. The objections raised by the 5th respondent in the Counter is as follows :-

3.1) The petition is false frivolous, vexatious and unsustainable in law and on facts. The petitioner is put to strict proof various allegations stated in the petition except that are admitted herein.

3.2) The petitioners have filed a frivolous suit to declare the documents mentioned in para 2 of the affidavit as invalid. The documents mentioned in para 2 of the affidavit are true, valid and genuine documents. The 5th respondents is the owner of the suit property and in exclusive possession of the same.

3.3) The averments contained in para 3 of the affidavit are hereby denied. This respondent submits that the alleged documents received by the 1st petitioner under Right to Information Act is said to be a statement given by the VAO in the proceedings before the RDO. The alleged statement of VAO in a proceedings is a inadmissible in evidence. The verocity of the alleged statement and its appreciation in the said proceedings can be ascertained only from the final order passed by the RDO in the said proceedings.

3.4) The petitioners have filed previous application before this court seeking the same relief to summon the witnesses along with their name but, the earlier application filed by the petitioner does not mention the present witness namely M. Murugesan, VAO in the list of witnesses in the petition. The petitioner is trying to prolong the proceedings by summoning the unnecessary witnesses one by one which would not sustain the claim of the petitioners. The civil proceedings are bound by the documentary evidence particularly the

documents maintained and issued by Revenue department. Hence the statement of evidence of VAO will not in anywise acceptable in a civil proceedings.

3.5) Already the suit has suffered several hearings for the evidence on the side of the petitioners. The petitioners have negligently allowed this suit to be dismissed for default and restore the same after an inordinate delay. Further when the matter was posted for evidence on their side, the petitioners without any purpose have been summoning and examining the witnesses one by one only with the intention to prolong and delay the proceedings. The procedure adopted by the petitioners in the present suit in filing the above petition is a abuse of process of court. Hence the petition may be dismissed with costs.

4. Both side have not lead any oral and documentary evidence and no documents were marked on either side.

5. Now the point for consideration is, whether the petition has to be allowed or not ?

i) The petitioners herein are the plaintiffs in the suit and the respondents are the defendants in the suit. In the suit defendants 1 to 3 were already set exparte. In this application the 5th respondent along filed the counter. The parties are discussed in this order as pleaded in the plaint.

ii) The plaintiffs who are the Husband and wife filed the suit for the relief of declaration of sale deed dated 23.07.2002, 28.09.2004 were null and void and further asked to declare the suit properties are absolutely belonged to the plaintiff and asked the further reliefs with cost on 19.11.2007. The suit is more than 15 years old and the same is in the top 25 targeted list of this court.

iii) On perusal of records now the suit is in the stage of further examination of the plaintiff side evidence. Now, the plaintiffs filed the present application to grant permission to the plaintiff to issue summon to the VAO of Koduvai village to appear and depose evidence relating to the report dated 03.11.2022. The 5th defendant strongly opposed this application and submitted the present application was filed only to drag on the proceedings and the plaintiffs are unnecessarily examining several witnesses to pro long the proceedings without an end.

iv) On perusal of records it is true this court has already granted sufficient time to the plaintiffs for examination of witness. It is also true the witness now sought for to be examined was not listed in the list of witness filed by the plaintiffs. Any have in the interest of justice and to arrive a fair justice this court is inclined to allow this petition without cost.

In the result this petition is allowed and the plaintiffs are permitted to take summons to VAO of Koduvai village only to appear and to give the evidence as stated in the petition. The 5th defendant is hereby directed to raise all the objections pleaded in the counter by way of cross examination.

Dictated to the Steno-Typist, typed by him directly into the computer, corrected, printed out and pronounced by me in the Open Court on this the **14th day of October 2025.**

Additional Subordinate Judge,
Tiruppur.

I. Petitioner and Respondent's side Evidences and Documents : Nil

Additional Subordinate Judge,
Tiruppur.

Fair/Draft order
I.A.No. 7/2025
O.S. No. 396/2015
Date : 14.10.2025
ASJ Court, Tiruppur

IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUPPUR

Present :- Thiru. K.R.Kannan, B.A., B.L.,
(JO.Code TN01220)
Additional Subordinate Judge,
Tiruppur.

Tuesday 14th day of October 2025

I.A. No. 7 / 2025

in

O.S.No. 396 / 2015

1. K. Manivannan, Son of Kaliappan, aged about 50 years, residing at S.F.No. 385/3E, Attikuttai Thottam, Goundampalayam, Perunthozhuvu, Tiruppur – 641665.
2. Usha, wife of K. Manivannan, aged about 46 years, residing at S.F.No. 385/3E, Attikuttai thottam, Goundampalayam, Perunthozhuvu, Tiruppur – 641665.

...Petitioners/ Plaintiffs

//Vs//

1. R. Maheswaran, son of Ramasamy, aged about 50 years, residing at No.5, Thillai Nagar 3rd street, Dharapuram Road, Tiruppur.
2. P. Shanmugam, son of Ponnusamy Gounder, aged about 40 years, residing at Door No. 163, N.V.P. Garden, Chellam Nagar Pirivu, Mangalam Road, Tiruppur.
3. R. Muruganandam, son of Ramasamy, full aged, residing at Door No. 10-A, Big Bazaar street, Tiruppur.
4. P. Nagavijay, Son of Bala Sridhar, aged about 35 years, residing at Door No. 70, Royapuram first street, Tiruppur.

5. V.P. Velmurugan, son of Palanisamy, aged about 52 years, residing at Door No. 5/18, Erukkadu Extension First street, Mangalam road, Tiruppur.

..... Respondents/ Defendants

The Petitioners, who are the plaintiffs filed this petition Under Order XVI Rule 1(2) of CPC to issue summons to the Village Administrative Officer of Koduvai Village, Tiruppur to appear and depose evidence with regard to the report dated 03.11.2022 as prayed for in the petition with cost.

This petition is presentation on dated :08.10.2025.

This Petition came before me on 13.10.2025 for the final hearing in the presence of Thiru. P.R. Rameshbabu, B.A., B.L., Advocate for the Petitioners/ Plaintiffs and Thiru.K.Sakadevan, M.Com., L.L.B., Advocate for the Respondent/Plaintiff and upon hearing both side arguments, and on perusal of available records, this court delivered the following...

// FINAL ORDER //

1. the petition be and the same is hereby allowed;
2. that there be no order as to cost.

Given under my hand and seal of this Court, this the 14th day of October 2025.

Additional Subordinate Judge,
Tiruppur.

**Final Order in
I.A.No. 9/2025
O.S. No.380/2019
Dated : 02.08.2025
ASJ Court, Tiruppur**

In the result, the suit is partly decreed as follows.

The relief of specific performance claimed by the plaintiff is hereby dismissed. By way of alternative relief the 1st defendant is hereby directed to repay a sum of Rs. 2,00,000/- which was paid by the plaintiff as an advance amount on 08.12.2017 with interest at the rate of 9% from 08.12.2017 till the date of decree with in 2 months with cost. If the 1st defendant failed to pay the same in time he is also liable to pay interest at the rate of 6% till the realization. To the said amount a charge is hereby created over the suit property.