

IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
THANJAVUR.

PRESENT : **Thiru.K.H.Elavazhagan, B.Sc., M.L.,**
Principal District & Sessions Judge, Thanjavur.

Friday, the 31th day of July, 2026.
(Thiruvalluvarandu 2057 Sri Parabhava Varudam Aadi Thingal 15th day)

Pauper Original Petition No: 171/2023
CNR No: TNTJ01 010462 2023

1. Kolunthupillai
2. Lakshmi
3. Sakthivel
4. Saranya
5. Santhiya

Petitioners / Plaintiffs

...

versus

- 1) The Commissioner
Thanjavur Municipal City Corporation
Thanjavur.

- 2) The state represented by
The District Collector, Thanjavur.

...

Respondents / Defendants

This Pauper Original Petition came up for final hearing on today (31.07.2026) in the presence of the petitioners, who appeared in person and Mr.N.Selvaraj, learned Advocate appearing for the 1st respondent and Mr.Sivaraman, learned Government Pleader appearing for the 2nd respondent and upon hearing the arguments made on both sides, perusing the oral and documentary evidence available on record, and having stood over for consideration till this day, this Court passed the following...

ORDER

- 1) This Pauper Original Petition has been filed by the petitioners under

Order XXXIII Rule 1 r/w Order VII Rule 1 of the Code of Civil Procedure seeking permission to sue as an indigent person for recovery of compensation of Rs.11,00,000/- on account of the death of Dhanapal, who allegedly died due to road accident on 22.10.2022.

2) **Brief averments of the petition are as follows:**

2.1) The plaintiffs submit that the first plaintiff is the mother of the deceased Dhanapal, and the second plaintiff is his wife, and the remaining plaintiffs are his children.

2.2) The petitioner contends that on 22.10.2022, Dhanabal was riding his motorcycle bearing Registration No. TN 45 H 0682 when a cow suddenly crossed the road, causing him to lose control of the vehicle and sustain grievous head injuries. He was immediately admitted to the Thanjavur Medical College Hospital for treatment as an inpatient. However, despite treatment, he succumbed to the injuries and died on 24.10.2022.

2.3) The petitioner contends that an FIR was registered by the Thanjavur Traffic wing Police in Crime No. 120/2022, and a Post mortem was conducted on 25.10.2022.

2.4) The petitioner contends that although the investigation authorities were unable to identify the owner of the cow. The petitioner contends that the accident occurred solely due to the negligence and failure of the defendants to discharge their statutory duty to prevent stray cattle from roaming on public roads, there by

rendering them liable for the consequences of the accident.

2.4) The plaintiffs further submit that Dhanapal was the sole earning member of the family, earning about Rs.1000/- per day as a mason. The first and second plaintiffs were dependent homemakers, and the remaining plaintiffs are school – going children. His untimely death has caused severe financial hardship loss of dependency, and loss of love and affection to the family.

2.5) The petitioner claims compensation of Rs.11,00,000/- from the respondents for the death of Dhanabal due to their negligence. He further states that he has no sufficient means to pay the requisite court fee and therefore, seeks permission to prosecute the suit as an indigent person.

3) **Brief averments of the counter filed by the 1st respondent are as follows:**

3.1) The respondent denied all the allegations made by the petitioner and contended that the petition is false, baseless and filed without any acceptable evidence. The respondent submitted that the petitioner has failed to establish that the Dhanapal was died due to road accident caused by the negligence of the respondents.

3.2) The first respondent contends that the relationship between the plaintiffs has to be proved by the petitioners. The first respondent denies the allegations regarding the accident, injuries, treatment, death of Dhanapal, registration of FIR in Crime No. 120/2022 and Post mortem, and puts the petitioners to strict proof of the same.

3.3) The first respondent contends that the accident occurred due to failure to prevent cattle and contends that there is no statutory liability on the Municipal city corporation and the Dhanapal was the sole earning member of the family and disputes the alleged loss of dependency as well as the compensation claim of Rs.11,00,000/-

3.4) The respondents further contended that the premises under its management are properly maintained without any negligence. Therefore, the petition seeking permission to sue as an indigent person is not maintainable and is liable to be dismissed.

4) **Brief averments of the Memo of Objection filed by the 2nd respondent are as follows:**

4.1) This respondent state that an enquiry was conducted by the Village Administrative Officer regarding the financial status of the petitioners. It was found that the first petitioner owns agricultural land in S.No.115/10B, and the deceased Dhanapal owned Punja lands comprised in S.No.113/10B to an extent of 0.20.05 Ares and the deceased Dhanapal owned punja lands in S.No. 287/3B to an extent of 0.19.0 Ares and landed properties in Natham in S.No.245E/82 to an extent of 0.02.79 Ares and also he owned a terraced house in Natham in S.No.245E/32 to an extent of 0.03.056 Ares. After the death of Dhanabal, the petitioners inherited the said properties.

4.2) The respondents further contended that the petitioner is not an indigent person, as he possesses sufficient means and properties to pay the requisite court fee.

Therefore, the petition seeking permission to sue as an indigent person is not maintainable and is liable to be dismissed.

5) To substantiate his claim, the petitioner filed his proof affidavit, examined himself as P.W.1, and marked four documents as Ex.P1 to Ex.P4, namely, the xerox copy of the First Information Report, xerox copy of the Post Mortem Report, xerox copy of the Death Certificate of Dhanapal, xerox copy of the Legal Heir Certificate of the deceased Dhanapal.

6) On the side of the respondents, no oral or documentary evidence was adduced.

7) **Point for consideration is that:**

i) Whether the petitioners have sufficient means to pay the court fee of Rs.33,000/-?

ii) Whether this petition has to be allowed or not?

Answering to Point Nos.1 & 2

8) Heard both sides and perused the records.

9) According to the petitioners, Dhanapal died in a road traffic accident caused by a stray cow on 22.10.2022. They contend that the accident occurred due to the negligence of the respondents in permitting stray cattle to roam on the public road. They have sought compensation of Rs.11,00,000/- for his death. Since they have no sufficient means to pay the requisite court fee, they seek permission to institute the suit as indigent persons.

10) Per contra, the respondents denied the allegations made by the petitioners and contended that the petitioners have failed to establish that the accident occurred due to the negligence of the respondents. They further disputed the relationship of the petitioners with the deceased, the alleged income of the deceased, the claim for compensation and the liability of the respondents.

11) It is further contended on the side of 2nd respondent that the petitioners are not indigent persons, as they have inherited agricultural lands and other immovable properties from the deceased and therefore, they possess sufficient means to pay the requisite court fee. Hence, they prayed for dismissal of the petition.

12) In order to establish their claim, the first petitioner examined herself as PW1 and marked Ex.P1 to Ex.P4, namely, the First Information Report, Postmortem Report, Death Certificate and Legal Heir Certificate relating to the deceased Dhanapal.

13) On the side of the respondents, no oral evidence was adduced. However, the second respondent has filed a Memo of Objection along with the report of the Village Administrative Officer. According to the said report, upon enquiry, it was found that the first petitioner owns agricultural land and that the petitioners have inherited agricultural lands, house sites and a terraced house belonging to the deceased Dhanapal. The relevant portion of the Village Administrative Officer's report reads as follows:

" நான் மேற்கண்ட கிராமத்தில் கிராம நிர்வாக அலுவலராக பணிபுரிந்து வருகின்றேன்.

எனது பொறுப்பு கிராமமான வண்ணாரப்பேட்டை முதன்மை, பள்ளிவாசல் என்பவர் வறியவர் வழக்கு தொடர்பாக தஞ்சாவூர் முதன்மை மாவட்ட அமர்வு நீதிமன்றத்தில் தொடரப்பட்டுள்ள வழக்கு தொடர்பாக விசாரணை மேற்கொள்ளப்பட்டது. மேற்படி விசாரணையில் மனுதாரர் மேற்படி கிராமத்தில் அவரது மருமகள் லெட்சுமியுடன் வாழ்ந்து வருகிறார் என்றும், மனுதாரருக்கு ஒரே மகன் தனபால் என்பவர் விபத்து ஒன்றில் இறந்துவிட்டார் என்றும், மனுதாரர் பெயரில் கிராமக்கணக்கில் புஞ்சை புல எண்.113/10B-ல் 0,20.5 ஏர்ஸ் -ம் அவரது மகன் தனபால் பெயரில் புஞ்சை புல எண்.287/3B-ல் 0.19.0 ஏர்ஸ் நிலம் உள்ளது என்றும், நத்தம் புல எண் 245E/82 -ல் 0.02.79 ஏர்ஸ் இடமும், அதில் ஒரு ஒட்டு வீடும், நத்தம் புல எண்.245E/32 -ல் 0.03.056 ஏர்ஸ் இடமும், அசையா சொத்துக்கள் உள்ளன என்றும், இவர் இந்து-ஆண்டிப்பண்டாரம் வகுப்பை சார்ந்தவர் என்றும், மனுதாரரின் மருமகள் லெட்சுமி என்பவர் தினக்கூலி வேலை செய்து மாத வருமானமாக 6000/- ரூபிடி வருகிறார் என்றும் கிராம விசாரணையில் தெரிய வருகிறது என்பதை ணிஷுடன் தெரிவித்துக் கொள்கிறேன்.”

During the course of cross examination of PW1, she stated as follows:

"என் மாமனார் பெயர் மாதர்சாமி என் மாமியார் பெயர் கொழுந்துபிள்ளை அவர் பெயரில் எங்கள் கிராமத்தில் புஞ்சை புல எண் 113/10 பி யில் 0.20.5 ஏர்ஸ் நிலம் உள்ளது என்றால் சரிதான். என் கணவர் பெயரில் அதே கிராமத்தில் 287/3பி யில் 0.19 ஏர்ஸ் நிலம் உள்ளது என்றால் சரிதான்.

3) எங்களுக்கு ஒட்டுவீடு (மாடிவீடு) உள்ளது. அதன் புல எண் 245ஈ/32 ல் ஒரு ஒட்டு வீடு உள்ள நான் கூலி வேலை செய்து வருகிறேன்.

4) எங்கள் கிராம நிர்வாக அலுவலர் ஒரு அறிக்கை கொடுத்துள்ளார் என்றும் அதில் மேற்கண்ட சொத்துக்கள் உள்ளது என்று கொடுத்துள்ளார் என்றால் சரிதான்.”

14) The above admissions made by PW1 clearly establish that the petitioners possess agricultural lands and a residential house. PW1 has also admitted that she is doing daily wage work. Thus, the oral evidence of PW1

corroborates the report submitted by the Village Administrative Officer regarding the financial status of the petitioners.

15) Under Order XXXIII Rule 1 of the Code of Civil Procedure, the burden lies upon the petitioners to establish that they are indigent persons having no sufficient means to pay the prescribed court fee. In the present case, in view of the admissions made by PW1 and the report of the Village Administrative Officer, this Court finds that the petitioners have failed to discharge the said burden. On the contrary, the materials available on record clearly establish that the petitioners own and have inherited immovable properties and possess sufficient means to pay the requisite court fee.

16) It is further seen that, in the verified affidavit filed in support of the petition, the petitioners have stated that they do not own any immovable property. However, during the cross-examination of PW1, she has categorically admitted that the petitioners own and have inherited immovable properties. Thus, the averments made in the verified affidavit are contrary to the evidence adduced before this Court. Therefore, this Court is of the considered view that the petitioners have suppressed material facts relating to their financial status and have not approached this Court with clean hands.

17) In view of the above, this Court holds that the petitioners are not entitled to seek permission to institute the suit as an indigent persons under Order XXXIII Rule 1 CPC. Thus, the Point Nos.1 and 2 are answered.

18) In the result, this Pauper Original Petition is dismissed. No costs.

Dictated to Steno-typist, typed by her directly in computer directly, corrected and pronounced by me in the open Court, on this 31st day of July, 2027.

Principal District Judge,
Thanjavur.

Witness examined on the side of the Petitioners:-

P.W.1 Lakshmi, W/o.Dhanapal. (2nd petitioner)

Exhibits marked on the side of the Petitioners:-

Ex.P1 21.11.2001 Xerox copy of the First Information Report.

Ex.P2 05.12.2001 Xerox copy of the Post Motem Report.

Ex.P3 03.01.2002 Xerox copy of the Death Certificate of Dhanapal.

Ex.P4 21.07.2003 Xerox copy of the Legal Heir Certificate of deceased Dhanapal.

Witness examined on the side of the Respondents:- None

Exhibits marked on the side of the Respondents: Nil

PDJ

Draft/Fair Order in
POP.No: 171/2023
PDC, Thanjavur.
Dated : 31.07.2026.