

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, VALLIYOOR

Present: Mithuna.A.Kaiser, B.A., B.L., Additional District Munsif, Valliyoor

Tuesday, On 9th day of December 2025.

I.A.No.1/2025

In

O.S.No.138/2024

Palkani

.... Petitioner/1st Defendant

-Vs-

1. Ponnuthai

.... Respondent/Plaintiff

2. The Sub- Registrar

Panagudi.

3. The District Collector,

Tirunelveli District

.... Respondents/ 2nd & 3rd defendants

This petition came before this court on 05.12.2025 for a final hearing in the presence of Thiru.V. Vadivel, Learned counsel for the petitioner, Thiru.M. Singaraja, Learned counsel for the 1st respondents, Thiru.V.Muthukrishnan, Learned Government Pleader for the 2nd & 3rd respondents and upon hearing, perusing the case records, and having stood over the consideration till this day, this court hereby delivers the following:

ORDER

The petitioner had filed this petition under Order 14 Rule 5, seeking to frame additional issues in the suit.

1. GIST OF AVERMENTS IN PETITION:

1.1. The petitioner had filed this petition stating that the suit was filed for the relief of declaration of title that the pathway mentioned in 5th schedule property

belongs to the plaintiff, further for the relief of permanent injunction restraining the 1st defendant from disturbing the possession of plaintiff, to declare that the settlement deed executed in favour of the 1st defendant as null and void and consequentially for injunction against the 1st defendant not to encumber the 5th schedule property. After filing of written statement the court framed the following issues: 1) Whether the 5th schedule property is a pathway ? 2) whether the 5th schedule property is in exclusive possession of plaintiff? 3) whether the plaintiff is entitled for the relief of declaration that the 5th schedule property of 15 links breadth North–South pathway of extent 10 cents exclusively belongs to the plaintiff ? 4) whether the plaintiff is entitled for the relief of permanent injunction restraining the defendant from disturbing the possession of plaintiff ? 5) Whether the plaintiff is entitled for the relief of declaration that the settlement deed bearing document No.948/2024 dated 14.03.2024 as null and void ? 6) whether the plaintiff is entitled for the prohibitive injunction restraining the 1st defendant from executing any document over 5th schedule property? 7) Whether the suit is barred by limitation? 8) Whether the suit is properly valued and proper court fee had been paid? 9) Cost and to what other relief, the plaintiff is entitled to?

1.2. The plaintiff is claiming relief based on her predecessor's sale deed dated 09.12.1953 and further deeds No.1839 of 1972 dated 03.09.1972, 525 of 2008 dated 13.02.2008, 3584 of 2010 dated 15.09.2010 registered at SRO, Panagudi. The land measurement in the above deeds are totally ambiguous and contain discrepancies. The said documents are not genuine. Therefore following issues are necessary for fair and essential trial: 1. Whether the plaintiff's document are genuine, when there are

discrepancies regarding the land measurement? 2. Whether the suit is bad for not seeking recovery of possession? 3. Whether the 1st defendant is entitled to the 5th schedule of property through adverse possession?. Thus prays for framing of additional issues, failing which would cause great hardship and irreparable loss to the petitioner.

2. GIST OF AVERMENTS IN COUNTER:

2.1. The 1st defendant countered that averments made by the petitioner is false, not maintainable in eyes of law and it should be dismissed at limine. The suit was posted for trial on 08.10.2025 and thus the petitioner had filed this petition to prevent the suit from trial and with an intention to drag on the proceedings and to cause inordinate delay.

2.2. It was further countered by 2nd and 3rd respondents that, the proposed 1st issue is already framed as 3rd issue. The proposed 2nd issue, whether the suit is bad for not seeking recovery of possession is unnecessary when the plaintiff himself stated in the written statement that the interference by the 1st defendant over the 5th schedule property was prevented by the plaintiffs. Thus as per the contention of the plaintiff, the plaintiff is in possession and such the issue regarding recovery of possession is unnecessary. Moreover, the proposed 3rd issue is about adverse possession, which must be prayed through counter-claim. Therefore the issue framed are sufficient and thus prays for dismissal of the petition with cost.

3. POINT FOR CONSIDERATION:

Whether the petition under Order 14 Rule 5 CPC has to be allowed or not?

3.1. Heard. Records have been perused. The petitioner/1st defendant has filed the present petition under Order XIV Rule 5 CPC seeking to frame additional issues relating to (i) the genuineness and the extent/measurement of the land described in the plaintiff's documents, (ii) recovery of possession, and (iii) the 1st defendant's alleged entitlement to the suit property by way of adverse possession.

3.2. On perusal of the case records, it is seen that the suit has been filed for (a) declaration of title, (b) declaration that a deed is null and void, and (c) consequential permanent injunction restraining the defendants from disturbing the plaintiff's peaceful possession and from creating encumbrances over the 5th Schedule property. The Court had already framed issues regarding the 5th Schedule property, namely the North-South pathway with a breadth of 15 links and an extent of 10 cents, including issues on title, possession, and consequential injunctive relief were also framed.

3.3. This Court is of the view that the first proposed additional issue regarding the "genuineness of the document" is unnecessary at this stage. The genuineness, validity, and evidentiary weight of the plaintiff's documents will be tested during trial and when evidence is appreciated. As settled by precedents, issues are to be framed only when they arise directly from the pleadings. Since the existing issues already cover the determinative questions relating to the plaintiff's title and possession, a separate issue solely on genuineness of documents is redundant and does not advance the trial.

3.4. The second proposed issue regarding "recovery of possession" is also not relevant, as the present suit is for declaration and injunction. Wherein the plaintiff's

case is that he is in possession of the suit property; hence, whether the defendants are in possession contrary to such claim will be determined during trial on appreciation of evidence. Moreover the disputed property is a vacant property. At this stage, framing an issue for recovery of possession would be premature and would alter the very nature of the suit, which is impermissible.

3.5. Furthermore, the 1st defendant's proposed issue regarding to the plea of adverse possession cannot be considered unless it is raised as a counter-claim, as adverse possession constitutes a specific and independent claim seeking declaration of title. Mere pleadings in the written statement are insufficient. Unless a proper counter-claim is filed, the Court cannot frame an issue on adverse possession. It is well-established that a defendant cannot merely resist a claim through adverse possession; it must be specifically pleaded as a substantive claim through a counter-claim seeking declaration of title. In view of the above discussion, this Court finds that the proposed additional issues are unnecessary as already framed issues are sufficient enough in determining the dispute between the parties.

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

This Order dictated to the Typist, directly typed in computer by him, corrected and pronounced by me in open Court, on 9th day of December 2025.

Additional District Munsif,
Valliyoor.

Witnesses examined on the side of Petitioner and Respondents: Nil

List of Documents on the side of the Petitioner and Respondents: Nil

Additional District Munsif Court,
Valliyoor

I.A.No.1/2025

in

O.S.No.138/2024

Draft/Fair Order

Dated:09.12.2025