

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUVANNAMALAI.

PRESENT : **Mr. P. Mathusuthanan, B.A., B.L.,**
Principal District Judge,
Tiruvannamalai

Tuesday, the 10th day of March - 2026

Transfer Original Petition No.28/2025
(CNR No.TNTM01-003689-2025)

Malaiyalasami Madam Represented by its ... Petitioner
President Madathipathi Nithiyanantha Sami

Vs

1. Pachaiyappan
2. Thilagavathi (**Died**)
3. The District Collector, Tiruvannamalai
4. The Tahsildar, Kalasapakkam
5. Superintending Engineer,
Tamil nadu Electricity Board,
Vengikkal, Tiruvannamalai.
6. Junior Engineer,
Tamil nadu Electricity Board,
Kalasapakkam.
7. President, Panchayat Office,
Kalasapakkam Taluk. ... Respondents
8. Arunagiri.

This Transfer Original Petition has come up for final hearing before me on 04.03.2026 and upon hearing the arguments of Tr.R.Eswaran, Learned Advocate appearing for the petitioner and Tr.M.Sambathrajan, Learned Advocate appearing for the 1st respondent and Tr.G.Pugazhenthii, Learned Government Pleader appearing for the respondents 3 to 6 and Tr.R.Lakshmikanthan, Learned Advocate appearing for

the 8th respondent and the 7th respondent remained exparte and upon perusing the records and having stood over for consideration till date, this court passed the following...

ORDER

This Transfer Original Petition is filed by the petitioner under section 24 of CPC praying to withdraw and transfer the suit O.S.No.275/2019 pending on the file of District Munsif-cum-Judicial Magistrate Court, Kalasapakkam to the file of this court for trial and disposal along with the suit O.S.No.113/2024 pending on the file of that court in accordance with law.

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

The property in question originally belongs to the Paramanatha Swamigal, thereafter on the basis of the gift executed by said Paramanda Swamigal, the property was reached to the hands of Pattabu Swamigal. Now the property stands in the name of Nithiyananda Swamigal through Will (பொறுப்புறுதி மாற்று ஆவணம்). Since the 1st & 2nd respondents made an attempt to trespass into the property the petitioner herein filed a suit O.S.No.304/2005 before the District Munsif Court, Polur seeking the relief of declaration and possession, which was subsequently transferred on the ground of territorial jurisdiction to District Munsif-cum-Judicial Magistrate Court, Kalasapakkam and taken on file in O.S.No.275/2019 and now it is pending for examination of further witness. He filed the above said suit as against the 1 to 7 respondents herein. During the pendency of the above suit

R2 impleading himself as one of the party which was dismissed on merit. In such a circumstance, the said 8th respondent herein has filed a suit O.S.No.113/2024 before this court as against the petitioner and 1 to 7 respondents herein seeking the relief of declaration and injunction as against the petitioner and all other respondents herein which is now pending for framing of issues and enquiry in I.A. In both suits, subject property and the parties are one and the same. The fact in issue to be answered in both suits are inter related and to be decided on the basis of the same set of facts and evidence. Hence, in order to avoid conflicting of decision and multiplicity of proceedings he requested to transfer the suit O.S.275/2019 from the District Munsif-cum-Judicial Magistrate Court, Kalasapakkam to the Principal District Court, Tiruvannamalai to try along with the suit O.S.No.113/2024. Hence, this petition.

3) **The averments in the counter filed by the 1st Respondent in brief, are as follows:**

The transfer O.P. petition filed against this respondent is false, vexatious, harassing and unsustainable one both in law and on facts and the same deserves to be dismissed in limini. This respondent does not admit any of the allegations contained in the petition and put the petitioner to strict proof of the same.

The suit property does not belonged to Malaiyalasami Madam (Mutt) situating in Kalasapakkam Village. But, the suit property belonged to the Sivan Koil, situating in the suit property which is under the care and maintenance of this respondent on behalf of the Kalasapakkam Village Public.

The suit in O.S.No.275/2019 stated in the petition is in part heard stage. In fact, in this transfer O.P. in para 4 of the petition it has been admitted by the petitioner that there is an Idol of Lord Sivalingam in the suit building and the same is being worshiped by Public Religions by performing poojas and rituals to the Idol of Lord Siva situating in the suit property. Basing which, since the suit property is a Public Religious Institution this respondent has filed a petition u/or.7 R 11 CPC to reject the plaint in I.A.N.1/2025 in O.S.No.275/2019 cited supra u/s 7(7) of the T.N Hindu Religious and Charitable Endowment Act, 1959 which defines 'Court' means Sub Court. Against this legal enactment the suit in O.S.No.275/2019 has been wrongly filed before the D.M.C, Kalasapakkam instead of Sub Court, Polur invoking wrong jurisdiction and after hearing the arguments of both sides the rejection of plaint in I.A.No.1/2025 in O.S.No.275/2019 cited above posted for orders. At this stage, the present transfer O.P. before this court has been vexatiously filed to drag the proceedings before the D.M.C, Kalasapakkam and the present Tr.O.P deserves to be dismissed.

4) **The averments in the counter filed by the 8th Respondent in brief, are as follows:**

Petition filed by the petitioner seeking a relief of alleged transfer is false, frivolous, vexatious and harassing in nature with intend to delay the adjudications. Hence it is liable to dismiss in limini. That there is no reasonable apprehension to the petitioner by the respondent. That there is no bias or stepmother attitude in the trial court proceedings. Considering the age of the respondent at 81 year's and his

health condition the respondent unable to travel from Kalasapakkam to Tiruvannamalai. If the transfer petition is allowed it must prevent the witnesses who are the senior citizens residing in Kalasapakkam town near to the trial court it will lead a unfairness and injustice. The petitioner not establish any proper ingredients for transfer the suit from Kalasapakkam to this court. That there is no prima-faci to transfer the case from Kalasapakkam to this court. The petitioner having a shopping of forum, which is impermissible in law. Hence, he requested to dismiss the petition with cost u/s.35 of cpc.

5) Memo filed by the Learned Government Pleader appearing for the Respondents 3 to 6, reported that no counter and the 7th respondent remained exparte.

6) **Point that arises for consideration in this Transfer Original Petition is that**

Whether this petition is to be allowed as sought for?

7) **Point:** The learned counsel appearing for the petitioner would contend that the property in question originally belongs to the Paramanatha Swamigal, thereafter on the basis of the gift executed by said Paramanda Swamigal, the property was reached to the hands of Pattabu Swamigal. Now the property stands in the name of Nithiyananda Swamigal through Will (பொறுப்புறுதி மாற்று ஆவணம்). He would further submit that since the 1st & 2nd respondents made an attempt to trespass into the property the petitioner herein filed a suit O.S.No.304/2005 before the

District Munsif Court, Polur seeking the relief of declaration and possession, which was subsequently transferred on the ground of territorial jurisdiction to District Munsif Court-cum-Judicial Magistrate Court, Kalasapakkam and taken on file in O.S.No.275/2019 and now it is pending for examination of further witness. He would further submit that he filed the above said suit as against the 1 to 7 respondents herein. He would further submit that during the pendency of the above suit R2 impleading himself as one of the party which was dismissed on merit. In such a circumstance, the said 8th respondent herein has filed a suit O.S.No.113/2024 before this court as against the petitioner and 1 to 7 respondents herein seeking the relief of declaration and injunction as against the petitioner and all other respondents herein which is now pending for framing of issues and enquiry in I.A. In both suits, subject property and the parties are one and the same. He would further submit that the fact in issue to be answered in both suits are inter related and to be decided on the basis of the same set of facts and evidence. Hence, in order to avoid conflicting of decision and multiplicity of proceedings he requested to transfer the suit O.S.275/2019 from the District Munsif-cum-Judicial Magistrate Court, Kalasapakkam to the Principal District Court, Tiruvannamalai to try along with O.S.No.113/2024.

8) **Per contra**, the learned counsel appearing for the first respondent would contend that though in both suits, parties are almost one and the same. Property and the madam is not one and the same and in both suits the cause of action and the fact

in issue and the evidence to be adduced on both side are not one and the same. He would further submit that infact the petitioner herein filed a suit O.S.No.275/2019 before the District Munsif-cum-Judicial Magistrate court, Kalasapakkam seeking the relief of declaration and recovery of possession under the representative capacity of Malayala Swamigal Madam. When the said suit was posted for defendant side evidence, the first respondent herein filed I.A.No.1/2025 seeking to reject the plaint of the petitioner on the ground of jurisdiction stating that the District Munsif Court, Kalasapakkam does not have a jurisdiction to dealing with the case fall's under the madam property. When the said I.A. was posted for orders after hearing both side, the petitioner herein has come forward with this application only with intend to drag on the proceedings. He would further submit that when in the both suits madam and property for which the petitioners claims title are entirely different, the question of either trying the both suits jointly or simultaneously does not arise. Hence, argued for dismiss the petition.

9) Similarly, the learned counsel appearing for the 8th respondent also would contend that the petition filed by the petitioner herein to transfer the suit O.S.No.275/2019 pending before the District Munsif-cum-Judicial Magistrate, Kalsapakkam to the Principal District Court, Tiruvannamalai to try along with the suit O.S.No.113/2024 filed by the 8th respondent herein before this court is not sustainable for want of any connection between the both suits either under property or cause of action or identical parties in both suits. Hence, argued for dismiss the petition.

10) Heard. Perused the Records.

11) From the submission of the learned counsel appearing for the first respondent, it would reveal that he has already filed I.A.No.1/2025 before the District Munsif-cum-Judicial Magistrate Court, Kalasapakkam in O.S.No.275/2019 seeking the relief of rejection of the plaint on the ground of jurisdiction. It is further noted from the submission of the learned counsel appearing for the first respondent that the petitioner herein suppressing the said I.A. filed by the respondent challenging the maintainability of the said suit before the District Munsif-cum-Judicial Magistrate Court, Kalasapakkam has come forward with this application. It is further noted that the petitioner who lost hope in maintaining the suit O.S.No.275/2019 before the District Munsif-cum-Judicial Magistrate Court, Kalasapakkam has come forward with this present application by abusing the process of law with intend to transfer the said suit which explicitly impermissible under law to try before the District Munsif-cum-Judicial Magistrate Court, Kalasapakkam for want of jurisdiction.

12) As rightly pointed out by the learned counsel appearing for the first respondent, the petitioner herein did not spell even a single word about the filing of the petition by the first respondent before the District Munsif-cum-Judicial Magistrate Court, Kalasapakkam in O.S.No.275/2019 under Or.7, R.11 of CPC and also the stage of the case posted for orders. Against this back drop, it needless to say that the petitioner herein has come forward with this application suppressing the

material facts involved in the case. Hence, considering the suppression of material fact and the stage of the suit as well as the non identical parties and the properties involved in both the suits, this court does not find any merit over the submission of the learned counsel appearing for the petitioner. Hence, this court is not inclined to allow this application and thus, this point is answered accordingly.

In the result, this petition is dismissed.

This Order is dictated to the *Stenographer Grade-II* of this court, transcribed by her in Computer, corrected and pronounced by me in open Court, this the 10th day of March, 2026.

**Principal District Judge,
Tiruvannamalai.**

Copy to:

The District Munsif-cum-Judicial Magistrate Court,
Kalasapakkam.

Draft / Fair Order in
Tr.OP. 28/2025
Dated : 10.03.2026.