

IN THE COURT OF THE MUNSIFF-MAGISTRATE MANANTHAVADY

Present : Sri.Anand Parathara, Munsiff-Magistrate, Mananthavady

Tuesday, the 12th day of August – 2025

(The 21st day of Sravana – 1947)

INTERLOCUTORY APPLICATION No.07/2025

In OS.No.105/2023

Between:

Thomas, S/o.Thomas, Aged 58 years, Mecheri Mannil,
Periya Amsom Desom, Mananthavady Taluk,
Wayanad District.

}
Petitioner/
Defendant

And

Joy @ Mathai, Aged 65 years, S/o.Ulahannan,
Puthankudiyil House, Periya Amsom Desom,
Mananthavady Taluk, Wayanad District.
(Now residing at Devankovil, Thaliyil Kayakodi,
Vadakara Taluk, Kozhikode District.)

}
Respondent/
Plaintiff

This petition coming on this day for hearing before me in the presence of Sri.Shaju.K.Joseph, Advocate for the Petitioner/Defendant and of Sri.M.Venugopalan, Advocate for the Respondent/Plaintiff, the Court delivered the following:

O R D E R

Petition filed under order 16, Rule 2 of the Code of Civil Procedure seeking orders summoning the witness mentioned in the list and directing him to produce the document No. 1532 of 1999 which was registered with the Registrar's Office at Mananthavady along with the certified copy of the same.

2. The petitioner is the defendant in the above suit. The respondent herein is the plaintiff. It is averred that the suit is one for permanent prohibitory injunction against the petitioner/defendant. But the defence raised is that the property belongs to the petitioner/defendant. Towards the evidence of the petitioner/defendant, the document No. 1532/1999, which is registered with the Registrar's Office at Mananthavady,

is to be produced. But the said document is currently, in the custody of the Perya branch of the Kerala Grameen Bank, as the petitioner/defendant had availed a loan upon the security of the said property. The said document is to be produced before the court in order to prove the case of the petitioner/defendant. Hence this petition, seeking orders summoning the witness mentioned in the list and directing him to produce the document No. 1532 of 1999 which was registered with the Registrar's Office at Mananthavady along with the certified copy of the same.

3. The respondent/plaintiff filed an objection stating that the petition is not maintainable. The petitioner/defendant could have produced a certified copy of the document. The Civil Rules of Practice provides for such direction as claimed, only when the copy could not be procured.

4. Heard.

5. The learned counsel for the petitioner argued that as per Rule 120 of the Civil Rules of Practice, the certified copy is allowed to be produced when the document is in a public office. The bank is not a public office as the bank officer is not a public officer. The registered deed is not a public document as per s.74 and 75 of the Indian Evidence Act. The deed submitted before the bank is a security and in the custody of the bank manager.

6. The learned counsel for the respondent/plaintiff replied that if the documents submitted before the bank are called for, it would be not practical for the manager to produce the documents as and when required. The petitioner/defendant admits that the said deed is registered.

Hence he could have produced a certified copy of the same and when such a step is provided in law, the instant petition is not maintainable and not practical also. The petitioner/defendant could have applied before the Sub Registrar's Office and procure a certified copy of the same.

7. Upon considering the rival arguments and the records before the court it is seen that the petitioner/defendant admits that the said deed is a registered one. In this suit for injunction, there is no reason stated as to why the original title deed is called for when the petitioner is able to produce the certified copy. It is also considered that the petitioner/Defendant admits that the said deed is a registered one. Hence the registration copy of the said deed shall be there and also the certified copy of the same can be produced by the petitioner/defendant. The petitioner has not mentioned that he is not able to produce such certified copy. There is no reason stated as to why the petitioner insists upon producing the original deed itself. The prayer of the petitioner is that the witness is to be directed to be present with the certified copy of the said deed. It is true that the parties shall not be devoid of any opportunity to prove their respective case. But in the absence of any specific reason, I could find no ground upon which the petition could have been allowed. Hence the petition is dismissed.

(Pronounced by me in open court on this the 12th day of August, 2025)

MUNSIFF-MAGISTRATE

APPENDIX : NIL

MUNSIFF-MAGISTRATE

Typed by : Sreelathika.V.M.
Compared By : Shiji.M.T