

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : Tmt.M.Santhosham., B.Sc., B.L.,

District Munsif, Sulur

Thiruvalluvar year 2056 Visvvasu year, 8th day of Masi

Friday the 20th day of February 2026

I.A.No.13/2026

in

O.S.No.529/2017

1. R. Palanisamy (Died)
2. P. Vijayalakshmi
3. P. Thangaraj
4. P. Vivek

...Petitioners/ 2nd to 4th Plaintiffs

/VS/

1. N. Rangasamy (Died)
- 2.N. Balakrishnasamy
3. Periyammal (Died)
4. S. Thangavelu
5. Valliathaal
6. Banumathi
7. T. Jayanthi
8. T. Suresh
9. P. Gopalakrishnan
10. B.C. Gnanam
11. T. Mani
12. P. Jaganathan
13. The Tahsildhar

Sulur Taluk

14. The District Collector,
Coimbatore

15. The Sub-Registrar,

Singanallur

16. Kalamani

17. Sangeetha

...Respondents/Defendants

This petition is coming on this day for final hearing before me in the presence of Mr.S.Jegadheesan, Advocate for the Petitioners and Mr.Nambikai Domanic, Advocate for the 2nd , 4th to 12th Respondents and Mr.P.P.Suresh Kumar, Advocate for the 16th and 17th Respondents and the 13th to 15th Respondents are set exparte in main suit and the 1st and 3rd Respondents are reported died and upon perusing the records, and this court made the following:

ORDER

Petition filed by the petitioners under Order 18 Rule 17 r/w Section 151 of CPC to Recall PW.2 for further marking of documents.

1. The brief averments of the affidavit filed by the petitioner as follows:-

1.1. The above suit is filed against the defendants for seeking the relief of Declaration and Permanent injunction. The 1st and 2nd defendants filed an earlier suit in O.S.No.450/2011 against the 1st plaintiff in respect of the suit property and the said suit was dismissed by the 2nd Additional Subordinate judge, Coimbatore vide its judgment and decree dated 20.11.2013, a copy of decree of the same has already been marked as exhibit in this present suit.

1.2. Other court records in the O.S.No.450/2011 filed against the 1st defendant are very much essential and vital documents to decide the present suit filed against the defendants. The decree passed in the said suit has been marked as Ex.A.12, the marking of plaint and judgment are very much essential to decide the case in accordance with law. Hence petitioners/plaintiffs filed application to sent for

the records in said suit and same has been received by this court. Its now just and necessary to recall petitioner/plaintiffs' evidence to mark the original plaint and judgment rendered in O.S.No.450/2011. Unless until the evidence of PW2 is recalled for marking of the plaint and judgement rendered in O.S.No.450/2011 petitioners/plaintiffs will be put to much loss and hardship. Hence, the petition is to be allowed.

2. The brief averments of the Counter Statement filed by the 2nd Respondent and adopted by the 3rd to 12th Respondents as follows :-

2.1. The petition is totally false and vexatious and not maintainable either on law or on facts of the case. The petitioner has filed the said case in the year of 2011 and it was disposed on 2011. But this petitioner filed this application now only to prolong the case and the said document is noway to connected to this present case. Now it is un - necessary to recall the PW.2. The Petitioner came with this Application to drag on the case proceedings. Therefore, by considering the above facts and circumstances of the case and the background of the events the real facts are suppressed by the petitioner. Hence, the petition not contain any merits nor morality and does not contain any ingredients, the petition is filed with a motive of getting unlawful gain against the Respondents, hence the petitioner is not liable to get any remedies by filing this petition. Hence, the petition ought to be dismissed.

3. The brief averments of the Counter Statement filed by the 17th Respondent and adopted by the 16th Respondent as follows:-

3.1. The above application is false, frivolous, vexatious and unsustainable under the law and on the facts of the case. Except those that are specifically admitted herein these respondents denies the entire allegations, averments and claims made in the petition and affidavit and puts the petitioners to the strict proof of each and every one of them. The other allegation that 2nd defendant filed an earlier suit against the 1st defendant in O.S.No.450/2011 and the same was

dismissed on 20.11.2013 the decree of the same already marked as Exhibit is admitted by these respondents. But the same will not bind these respondents and the same is not conclusive one. But the other allegation that the other court records in O.S.No.450/2011 are very much essential and vital documents to decide the present suit against the defendants is utter false and misleading one and the same is no way help to decide the suit issues. The other allegation that since the petitioners no party to the earlier suit they could not able to get certified copies is utter false and misleading one.

3.2. The petitioner is not party and author of the documents and the petitioner cannot give evidence on the base of the said documents. The petitioner is not a fit person to give evidence about the documents. Hence recall of the petitioner is no way useful to decide the case. The above application is devoid of all legal and moral merits and the same is liable to be dismissed with cost.

4. No Witnesses were examined on either side, and no documents were marked as exhibits.

5. Points for Consideration:-

Whether the petition under Order 18 Rule 17 r/w Section 151 of CPC to Recall PW.2 for further marking of documents is to be allowed?

6. Points :-

6.1. The Petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. The suit documents were carefully examined. The original suit is filed for seeking relief of Declaration and Permanent injunction. Now the suit is pending for further plaintiff side evidence.

6.2. The petitioners stated that, the 1st and 2nd defendants filed an earlier suit in O.S.No.450/2011 against the 1st plaintiff in respect of the suit property and the

said suit was dismissed by the 2nd Additional Subordinate judge, Coimbatore vide its judgment and decree dated 20.11.2013, a copy of decree of the same has already been marked as exhibit in this present suit. Other court records in the O.S.No.450/2011 filed against the 1st defendant are very much essential and vital documents to decide the present suit filed against the defendants. The marking of plaint and judgment are very much essential to decide the case in accordance with law.

6.3. The respondents objected that, this petitioner filed this application now only to prolong the case and the said document is noway to connected to this present case. Now it is un - necessary to recall the PW.2. The Petitioner came with this Application to drag on the case proceedings. The petitioner is not party and author of the documents and the petitioner cannot give evidence on the base of the said documents. The petitioner is not a fit person to give evidence about the documents.

6.4. This being the trial court, have to given opportunity to both sides to elucidated both side case before this court. Further this being the Declaration and Permanent injunction of title suit, this court must considered both side oral and documentary evidences. The proof relevancy and admissibility of the documents will be decided only at the time of pronouncement of judgment, without marking any documents, it cannot be rejected. Hence, in the interest of justice this petition is allowed.

In the result this petition is allowed. No cost.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 20th day of February 2026.

Sd/M.Santhosham
**District Munsif,
Sulur.**

List of witnesses and documents on petitioners side: - Nil

List of witnesses and documents on Respondent side:- - Nil

Sd/M.Santhosham

District Munsif,

Sulur.

Draft/ Fair Order

I.A.No.13/2026 in

O.S.No.529/2017

Dated : 20.02.2026

DMC, Sulur.