

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sulur

Thiruvalluvar year 2056 Visvavasu year, 20th day of Thai

Tuesday the 3rd day of February 2026

I.A.No.19/2026

in

O.S.No.937/2017

1. Deivasigamani (died)
2. Subramaniam (died)
3. Rajamani
4. Shanmugasundaram
5. Senthil Prakash
6. Maheswari
7. Nikila
8. Gowri

... Petitioners/Plaintiffs

/VS/

1. M/s. K.P.R. Cotton Mills Pvt.Ltd,
2. K.P. Ramasamy,
3. K.P. Deivasigamani,
- 4.P. Nataraj

All Defendants are represented by
their power agent Krishnan

...Respondents/Defendants

This petition is coming on this day for final hearing before me in the presence of Mr.V.Raveendran, Advocate for the Petitioners and Mr.S.Chandrasekaran, Advocate for the Respondents and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioners under section 151 of CPC to reopen the plaintiffs side evidence in order to disclose the important facts as oral evidence and to produce the documents in respect of the suit properties.

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

1.1. The 4th Petitioner herein and 4th Plaintiff in the above suit. The 1st and 2nd Petitioners/Plaintiffs had filed the above suit for Permanent Injunction, declaration and recovery possession against the Respondents/Defendants. During the life time the 1st Plaintiff namely Deivasigamani deposed evidence on the Plaintiff side as P.W.1 at earlier. At the time of deposing evidence, unfortunately by oversight some important facts were omitted and some important documents were not produced in respect of the suit properties. The above omitted facts and documents are vital and essential to substantiate petitioners/plaintiffs case. The non-disclosure and non-production of the above facts and documents are not due to negligence and wanton. Now the above witness Deivasigamani P.W.1 was died. Hence the 4th petitioner come forward with the instant application to reopen the Plaintiff side evidence in order to disclose the above important facts and to produce the documents as just and necessary. Unless this Court is reopened the Plaintiffs side evidence in order to disclose the above important facts as oral evidence and to produce the documents in respect of the suit properties, 4th petitioner will be prejudiced and put to hardship. Hence, the petition is to be allowed.

2. The brief averments of Counter statement filed by the 3rd Respondent and adopted by 1st, 2nd and 4th Respondents are as follows:

2.1. The petition is false, vexatious and unsustainable in law and on facts of the case. The petitioner is put to strict proof of all the allegations in the affidavit except those that are specifically admitted herein. At the outset, the suit was filed in the year 2017 and 1st plaintiff being elder member of the family was duly

examined in chief and cross on following dates: 30.08.2017, 23.09.2022 and thus, after taking a long time for examination of plaintiff side evidence as well as production of documents, now after a period of 8 years this application has been filed for reopen of the suit for let in fresh oral evidence as well as new documents on petitioners/plaintiffs side. It is not the case of recalling PW1 (since he is no more) and on the other hand, he was also examined in chief and cross. Whileso, if this application is allowed, it is literally examining fresh witness as well as production of new documents with intent to fill up the lacuna. Moreso, the affidavit is very vague and bald and also it is well-settled position of law that to fill up lacuna in oral and documentary evidence of plaintiff's side, recalling witness or examining witness afresh to fill up lacunae cannot be allowed and if this proposition is accepted, this will lead to multiplicity of introducing new facts and documents which is also a never-ending process. Besides that, that will affect very root of the case.

2.2. Without prejudice, if really the plaintiff's contentions are true, the petitioner ought to have disclosed the nature of documents to be produced and also the necessity of oral evidence to that effect. To the contra, there are no documents produced in support of this affidavit and also proof affidavit for chief examination if any in enlightening the court about its necessity, is not produced. Hence, the petitioner at present when the case is posted for arguments, cannot be reopened for purpose of examining the witness afresh and produce new documents.

2.3. Moreso, already the PW.1 gave evidence and in case of any contradiction of oral evidence by subsequent witness, this respondent may lose a chance of cross-examination and its contradiction with witness already examined. Thus, law does not permit or entertain such kind of petition which is otherwise a dragging proceeding which already caused and thereby this application is devoid of merits. PW1 being elder member of the family already deposed his oral evidence along with documents and whileso, a fresh witness cannot be examined to fill up the

lacuna of oral and documentary evidence of PW1. Thus, this petition is unsustainable in law and on facts of the case. Hence, the petition is to be dismissed.

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

4. Points for Consideration:-

Whether the petition under section 151 of CPC to reopen the plaintiffs side evidence to produce the documents in respect of the suit properties is to be allowed?

5. Points:-

5.1. 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 main suit is filed for Declaration and Recovery of possession of Item No.1 of suit property against the Respondents/Defendants. The original suit is pending for plaintiff side arguments.

5.2. Petitioners/plaintiff stated that, during the life time the 1st Plaintiff namely Deivasigamani deposed evidence on the Plaintiff side as P.W.1 at earlier. At the time of deposing evidence, unfortunately by oversight some important facts were omitted and some important documents were not produced in respect of the suit properties. The above omitted facts and documents are vital and essential to substantiate petitioners/plaintiffs case. Respondents/Defendants objected that, after a period of 8 years this application has been filed for reopen of the suit for let in fresh oral evidence as well as new documents on petitioners/plaintiffs side. It is not the case of recalling PW1 (since he is no more) and on the other hand, he was also examined in chief and cross. Whileso, if this application is allowed, it is literally examining fresh witness as well as production of new documents with intent to fill up

the lacuna.

5.3. On perusal of record, the main suit is filed for Declaration and Recovery of possession of Item No.1 of suit property in the year 2017. Main suit is pending for plaintiff side argument. In this suit Hon'ble High Court issued direction to dispose this suit within 4 months. Hence, this petition is belated one. Further no sufficient reason are stated in this petition. The petitioners/plaintiffs filed this petition to reopen the plaintiffs side evidence in order to disclose the important facts as oral evidence and to produce the documents in respect of the suit properties. The 1st petitioner/plaintiff 1st plaintiff Deivasigamani examined as PW.1 in chief and cross on following dates: 30.08.2017, 23.09.2022 and thus, after taking a long time for examination of plaintiff side evidence as well as production of documents, now after a period of 8 years this application has been filed for reopen of the suit for let in fresh oral evidence as well as new documents on petitioners/plaintiffs side. The 1st petitioner/plaintiff Deivasigamani was died on 05.10.2023 hence the PW.1 could not be recalled. The petition and affidavit are vague and bald.

5.4. The main burden of plaintiff is to prove the suit property is belongs to him and he is entitled for recover of the property. Further the case is pending more than 16 years now the petitioner come forward with the present application is only to drag the case. Hence, in the interest of justice, considering the counter statement, the present application is not maintainable.

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

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 3rd 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

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Dated: 03.02.2026

DMC, Sulur