

**IN THE COURT OF I ADDITIONAL DISTRICT & SESSIONS JUDGE,  
CUDDALORE.**

Present : **Tmt.G.Saraswathi, M.L,**  
I Additional District & Sessions Judge,  
Cuddalore.

**Monday, the 24<sup>th</sup> day of November 2025**

**I.A.No.5 of 2025 & I.A.No.6 of 2025 in O.S. No.70 of 2021**

**(CNR No. TNCD01 – 001528 – 2021)**

N.Viswakethu ... Petitioner / Defendant

-Vs-

B.Ramasamy ... Respondent /Plaintiff

These petitions filed on 24.09.2025 came before me for final hearing on today in the presence of Mr.R.Subramani, Counsel for the Petitioner/Defendant and Mr.O.S.Rajasekaran, Counsel for the Respondent/ Plaintiff and upon hearing both sides and upon perusing the entire case records and having stood over for consideration till this day, this Court delivered the following:

**COMMON ORDER**

**I.A.No.5 of 2025:**

This petition filed under Order XVIII Rule 17 and Sec 151 of CPC to grant leave to recall DW1 affording an opportunity to let in oral and documentary evidence.

**I.A.No.6 of 2025:**

This petition filed under Order VIII Rule 1-A(3) and Sec.151 of CPC to grant leave to file the petition mentioned document and the same be received by condoning the delay.

**2. The brief averments of the petitions in I.A.No.5 of 2025 & I.A.No.6 of 2025:**

The petitioner is the defendant in the suit. The respondent has filed the suit against him for declaration of title to the suit property and for recovery of possession. The petitioner/ defendant filed written statement and contesting the same. He examined himself as DW1 and Ex.B1 to Ex.B4 were marked on his side. The case is posted for letting further evidence of his side. The petitioner / defendant filed a separate application to receive document. On the instructions given by his counsel for examining further witness on his side he contacted the officers of Perampattu panchayat and came to know that Dhanakodi was a member in Mahatma Gandhi National Rural Employment Guarantee Scheme and she was a card holder. Then, the petitioner/ defendant searched the old records. He found the original identity card issued to Dhanakodi under the said scheme. The respondent under the impression the deceased had not left behind a solid proof that she was a signatory, had fabricated a Will with a thumb impression of someone that too after the death of Dhanakodi. He found the document from the old documents kept his mother only on 13.09.2025. It is a valid and vital document. The identity card is an unimpeachable document. The document could not be filed due to the above said reasons. Now, he has advised to file the above document to prove his case. In the interest of justice, leave may granted to recall for the purpose of letting further oral and documentary evidence, he will be put to serious and irreparable loss if the application is not allowed. Thus, the petitioner prays to grant leave to recall himself and afford and opportunity to let in further oral and documentary

evidence and pass such other orders. the delay in filing the document may condoned and the document may be received. Hence, this petition.

**3. Brief averments of the Counter filed by the Respondent is as follows in I.A.No.5 of 2025 & I.A.No.6 of 2025:**

The entire allegations in this petition are denied except those that are specifically admitted herein. This respondent suspects the genuineness of the MGNREGS card produced at the belated stage. The deceased Dhanakodi whether regularly signs or affixes thumb impression cannot be decided on the basis of card produced. The petitioner had not stated any valid reasons to recall DW1 and the petitioner has created the documents. Thus, he pray to dismiss the petition with costs.

**4. POINT FOR CONSIDERATION:**

Whether these petitions are to be allowed or not?

**5. DISCUSSION ON THE POINT:**

**5.1** The Respondent / Plaintiff has filed the suit for declaration and possession of the suit property on the basis of an unregistered Will executed by one Dhanakodi. The petitioner / defendant has opposed the suit claim questioning such execution and would allege that the same is a forged and concocted documents. During trial, the defendant who was examined as DW1 had been cross examined on the side of plaintiff to the extent that Ex.P9 Will is executed by Dhanakodi for which he has stated that he is in possession of documents wherein Dhanakodi had affixed her signature. It is the case of the defendant that the

Thumb impression in the Will does not belong to Dhanakodi and she only signs and not affix her Left Thumb Impression.

**5.2** The petitioner to establish that Dhanakodi only affixes her signature while the Will with alleged Thumb impression is false and fake therefore would seek to produce the original identity card issued to Dhanakodi under MGNREGS Mahatma Gandhi National Rural Employment Guarantee Scheme and would pray to recall and receive the said original identity card. The respondent / plaintiff on the other hand would submit that the genuineness of the said card produced at belated stage is doubtful and it is not an unimpeachable document and it will not decide whether Dahankodi would regularly affix signature or thumb impression and hence, the document cannot be relied upon and recall of DW1 for the said reason is not sustainable.

**5.3** Admittedly, the said original identity card issued for Mahatma Gandhi National Rural Employment Guarantee Scheme is sought to be produced from the custody of the petitioner / defendant and not from any proper authority. The petitioner did not take any steps to summon the concerned Authority who had issued the identity card however, receiving such original identity card in evidence will not prejudice the respondent/ plaintiff and it is always subject to proof and relevancy and it is well settled law of evidence that receipt of document itself is not proof of such document. Hence, subject to proof and relevancy, I am inclined to allow both the petitions.

**I.A.No.5 of 2025 :**

In the result, this petition is allowed subject to proof and relevancy of the document sought to be received.

**I.A.No.6 of 2025 :**

In the result, this petition is allowed subject to proof and relevancy of the document sought to be received.

Dictated to Steno-typist, transcribed and typed by her, corrected by me directly in my lap-top and pronounced by me in the open Court, on this the 24<sup>th</sup> day of November, 2025.

I Additional District and Sessions Judge,  
Cuddalore.

**List of witnesses and**

**exhibits on both sides:** Nil

I Additional District and Sessions Judge,  
Cuddalore.