

**IN THE COURT OF SUBORDINATE JUDGE,
MADURANTAKAM.**

**Present: Mr. T. GANESH, B.A., B.L.,
Subordinate Judge,
Madurantakam.**

**Wednesday, this 04th day of February 2026
I.A .No.1/2020
in
A.S.No. 16/2020
(CNR.No.TNCG13000092-2020)**

1. Maniyan
2. Kanthammal ...Petitioners/Appellants

..Vs..

1. Duraikannu
2. Amsammal (Died)
3. Pushpa
4. Lalitha
5. Dayalan ...Respondents/Respondents

This application coming up before me on 12.01.2026 for final hearing in the presence of Mr.P.S.George, learned counsel for Petitioners/Appellants and Mr.R.S.Renganathan, learned counsel for Respondents/Respondents and after hearing arguments on both sides, upon perusing the case records, appeal memorandum, affidavit and petition filed; having stood over till this day for considerations, this court delivered the following:

ORDER

This petition is filed by the petitioners/appellants Under Order XLI Rule 27 and r/w Section 151 of Civil Procedure Code to receive the documents in appeal.

2. Petition in brief:

Petitioners are appellants in the appeal. The respondents filed the suit for declaration and for permanent injunction as against petitioners and the same was decreed on 20.12.2019. As against the decree and judgment, petitioners filed the appeal before this court. The documents filed along with this petition are very vital to prove their case. The petition mentioned documents were received recently from the sub registrar office, Cheyyur. Document No 1 is the certified copy of the sale deed executed by respondents in favour of the appellants. The original sale deed had been filed in the trial court and it was marked as Ex. B1. Petitioners are filing the certified copy of the sale deed to be compared with the original sale deed. Document No 2 is the sale deed dated 30.09.1982 executed by Krishnan and others in favour of Selvamammal. Petitioners were unable to file the same in earlier stage of the case. The omission to file the said documents in earlier stage of the case is neither willful nor wanton. Hence, the petitioners file this application to receive documents in appeal as additional evidence.

3. Counter filed by the 1st respondent and adopted by respondents 3 to 5 in brief:

The respondent denies the allegations set out in the affidavit. As admitted by the petitioners when the original sale deed is marked as Exhibit B1, there is need to, receive the certified copy of the same document in the appeal stage. Further the receiving of the certified copy of the sale deed would of no use in the appeal stage. The purpose stated in the petition is invented one.

The 2nd petitioner/2nd appellant before the District Munsiff Court at Madurantakam gave evidence in her proof affidavit in chief about the sale deed 30.09.1982 now described as document No.2 in the petition. The petitioners/appellants marked the sale deed dated 12.04.1985 in document No.215/1985 as Exhibit B4. The said sale deed is said to have executed by Selvammal @ Selvam, W/o.Ramalingam. So the petitioners/appellants ought to have filed the sale deed dated 30.09.1982 before

the District Munsiff Court Maduranthakam itself. The petitioners/appellants cannot address their failure to procure the sale deed as one to omission. The petitioners/appellants admits that they have got knowledge and information about the sale deed dated 30.09.1982 now described as document No.2 in the petition when the suit is pending before the District Munsiff Court at Maduranthakam itself. But the petitioners/appellants did not exercise their due diligence in filing the said documents before the trial court itself, inspite their knowledge and information about the same. So the petitioners/appellants are barred from filing the said document now in appeal stage before this court.

Petitioners/appellants did not satisfy and fulfill the legal requirements to receive additional evidence in the appeal stage contemplated under Order XLI rule 27 of C.P.C. Further the production of such documents would no way helpful to pronounce the judgment in appeal on merits. Further there is no any other substantial cause to receive the documents in the appeal stage. The petition is filed just to drag the appeal proceedings. There is no merit in the petition to receive additional documents in appeal.

Hence the respondents pray for dismissal of the application.

4. No oral or documentary evidence adduced by both parties.
5. This application was heard along with the appeal. Heard both sides and perused the records.

6. Point:

“Whether this application can be allowed?”

The petitioners have filed the present application under Order XLI Rule 27 read with Section 151 of the Code of Civil Procedure seeking to receive certain additional documents as evidence in the pending appeal. It is the contention of the petitioners that though the original sale deed of document no.1 mentioned herein was marked in trial court, to clarify the doubt raised by the trial court about the authenticity of the document, now file the copy of the same obtained from the sub registrar office. Likewise as the pe-

tioners fail to mark the sale deed namely the document no.2, they now intend to exhibit the same to prove their case.

Per contra the respondents defend this application as such the original document of document no.1 itself marked and hence the said document no.1 is unnecessary and that the petitioners who were aware of document no.2 in trial court itself, fails to produce the same. Hence the respondents pray for dismissal of the application.

Order XLI Rule 27 CPC restricts the reception of additional evidence in appeal to specific circumstances, namely: (i) where the trial court has refused to admit evidence which ought to have been admitted; (ii) where the evidence sought to be produced was not within the knowledge of the party or could not be produced despite due diligence in trial court; or (iii) where the appellate court considers such evidence necessary to enable it to pronounce judgment or (iv) for any other substantial cause. It is not the case of petitioners that the trial court refused to admit the documents mentioned herein. So, first ground would come into aid of the petitioners. Then it is also not their case that the documents were not available or that they could not be produced with due diligence during the trial. It is pertinent to note that the original itself produced and hence the second ground also will not get attracted.

In respect of document no.1, there is no doubt that the original for the said document was produced in trial court and the same was marked as Ex B1. Petitioners claim that the trial court in its judgment has raised doubt over the corrections made in the Ex B1 and also create a doubt over the properties which are sold under Ex B1 as there are differences in the lines between the sentences and clarify the same now, they wants to produce the certified copy obtained from sub registrar office. No doubt that the core question involved in the suit was whether the suit property was sold under Ex B1 to the petitioners, as the said property was not described in schedule of properties and only described in the annexure of the said Ex B1. Learned trial court also raised serious doubts over the extent and differences between the lines in schedule of properties in Ex B1 in its judgment. In judgment para 1.8 and 1.9,

“1.8. It is also observed that the stamp papers of the Exhibit B-1 page 1 to 8 are dated 04.04.1991 and the page 9 Annexure of the sale deed Exhibit B-1 is dated 2.02.1989 Further in page number 7 at the end line the " வரி 3 ல் 4 முதல் று வரை அடித்தல் வரி 6 ல் 152 ½ அடித்தல் வரி 6 ல் 1.51 ½ வரி பிணைப்பு " is included as **the line spacing are lesser** compared to other lines of the Document.

1.9. Further it is observed that in the sale deed Exhibit B-1 it is noted that, in Exhibit B-1, the property subjected to sale is first written as 1 acre 52 cents subsequently struck down and written as 1 acre 51&1/2 cents. Further in Exhibit B-1 as per the schedule of property the total extent of land subjected to the sale sum up only to 1.02 and ½ cents further it is not understood that why the extent is written as 1.52 and altered to 1.51 & 1/2. If the extent was altered at the time of execution of the document (Exhibit B-1) itself then the schedule of property in the sale deed would also have been altered as it is wrongly written inside. It is noted that the inclusion is done only in the annexure and in the sale deed scheduled of property no alteration is done only the extent of the land in figures sold is **altered which creates ambiguity over the genuineness over the contents of Exhibit B-1**. The learned counsel for the Defendant argued that due to inadvertence the Survey Number has been left out at the schedule of property description and the item numbers are wrongly mentioned whereas upon observation it is noted that the deletion of the trees in the sale deed are made, survey number is not mentioned extent of land is altered hence the plea that due to inadvertence the omission and alternation is made is not acceptable”.

This would clearly shows that the trial court has found a cloud over the execution of Ex B1 that too particularly regarding corrections made therein as such it concludes that the said corrections were made after registration of document. Petitioners main contention is that to clarify the said ambiguity and to clear the said cloud which was held by the trial court, they want to exhibit the registration copy of the said document. Further the main argument of the respondents herein is that the Ex B1 was concocted after execution of the same. So also to clarify the same the petitioners want to exhibit the certified

copy obtained from the sub registrar office. Apart from that the core question involved in the suit was whether the respondents sold the suit property to the petitioners or not. To clarify the same alone the petitioners wants to mark the document to clear the doubt raised by the trial court. Hence no doubt that the said document no.1 would help this court to arrive at a correct conclusion regarding core question involved in the suit. On this context this court wants to rely upon a decision of our Hon'ble Apex Court in ***Jagdish Prasad Patel(Dead) and another Vs Shivnath and others***, reported in, **2019- 3 – MWN - (Civil) 431**, where it is held that when document sought to be marked has direct bearing on main issue in suit, same must be received in interest of justice. Here there is no doubt that the said exhibit would help this court to pronounce judgment. So, the third ground was made out by the petitioners to receive the document no.1 in appeal.

Next in respect of document no.2 the petitioners contend that they now only obtain the certified copy of sale deed dated 30.09.1982 and hence the said document to be received in evidence. As discussed above as per Order XLI Rule 27, it is not the case of petitioners that the said document no.2 was rejected by the trial court from evidence. Next as rightly pointed out by the respondents the petitioners in their evidence itself deposed about the said document no.2 in page 9 of Dw1 cross examination. Dw1 was specifically put questions in respect of the document no.2 which was alleged to be the parent document for Ex B4. If it so, the petitioners were put knowledge about the document no.2 in trial court itself. So, it cannot be construed that inspite of due diligence, the petitioner was unable to exhibit the said document in trial court itself. So, the petitioner has not made out the second ground.

Next in respect of third and final ground, the production of the said document no.2 would not serve any purpose as Ex B4 was already filed. Apart from that there is no other substantial cause was put up by the petitioner to receive the document no.2 as evidence in the appeal. Hence the third and final ground also not get attracted.

In summation the petitioners have made out sufficient grounds to receive the document no.1 in appeal and that they have not made out any grounds muchless sufficient

cause to receive the document no.2 in the appeal. Hence this point is decided accordingly.

7. Result:

In the result this application is partly allowed in respect of document no.1 and that the application is dismissed in respect of document no.2. No costs.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 04th day of February, 2026.

Subordinate Judge,
Madurantakam.

Both sides Evidence and Exhibits: Nil

Subordinate Judge,
Madurantakam.

DRAFT/FAIR ORDER
I.A No. 1/2020
in
A.S No. 16/2020
D.D: 04.02.2026
SUB COURT,
MADURANTAKAM