

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

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

**Friday, this 26th day of September 2025
I.A.No.2/2025
in
I.A No. 2/2024
in
H.M.O.P No. 98/2022
(CNR.No.TNKPOB000610-2022)**

D. Elumalai

... Petitioner/Respondent/Petitioner

..Vs..

E. Loganayagaki

... Respondent/Petitioner/Respondent

This petition coming up for final hearing on 19.09.2025 in the presence of M/s.S.Senthilkumaran and K.Priya Ilavarasi, counsels for the petitioner/respondent and M/s.M.Rajakantha and K.R.Kirthi Bhaarathi, counsels for respondent/petitioner, after hearing the arguments on both sides and upon perusing the records, having stood over for the consideration of this court till date, this court delivered the following;

ORDER

This petition is filed by the petitioner under section 151 of CPC to re-open the evidence of the petitioner side in I.A 2/2024.

2. Petition in brief:

Respondent filed petition Under Sec.26 of Hindu Marriage Act and the same was numbered as I.A.No.2/2024 in HMOP.No.98/2022. Court heard both side enquiry and reserved for orders on 12.09.2024. After verifying the bundle, the petitioner came to know that petitioner's side documents such as FIR, Passport, Income certificate, Patta stands in the name of petitioner's father and Photo with CD were not marked at the time of his side enquiry. The above mentioned documents are very vital document to prove his case. The above said documents are filed along with counter. Non marking of the documents its neither willful nor wonton. If the above said documents not marked petitioner's side he will be put into heavy loss and hardship. Hence this petition.

3. Counter of Respondent in brief:

The respondent denies the allegations set out in the affidavit. The above petition is not at all maintainable on the ground that the evidence on both sides has already been closed and the matter has been reserved for orders 01.03.2025. The Court for the limited purpose of clarification, suomotu reopened the matter. After clarification, the case was again reserved for orders on 12.09.2025.

Petitioner cannot once again seek reopening of his side evidence. The earlier reopening was only for clarification at the discretion of the Court, and not at the instance of the petitioner. Permitting the present application would, amount to giving the petitioner multiple opportunities to fill up lacunae, which is impermissible in law.

The attempt of the petitioner to reopen evidence at this belated stage is only to prolong the proceedings and delay the disposal of the matter. It is

settled law that once the matter is reserved for orders, the Court cannot be asked to go back to the evidence stage without cogent, bonafide, and compelling reasons. No such reason is made out in the present application. The petitioner's case has already been fully heard and evidence on both sides has been completed. The matter has reached the stage of final orders. At this belated stage, the attempt to reopen evidence is nothing but an afterthought and an abuse of process of law.

Petitioner had sufficient opportunity to produce and mark any documents during his side evidence. Having failed to do so, he cannot now claim that the omission was "neither willful nor wanton". Such a vague statement cannot be accepted as a valid ground for reopening. The documents now sought to be produced (FIR, Passport, Income Certificate, Patta, Photographs with CD) were admittedly in the petitioner's possession and knowledge throughout the proceedings. There is no case that these documents were newly discovered or obtained later. Hence, no valid reason exists for the belated attempt to mark them now.

In fact most of the documents now sought to be produced (like FIR, Patta, Passport, Income Certificate, photo and CD) are wholly irrelevant to the present I.A. No.2 of 2024, which has been filed under section 26 of Hindu Marriage Act 1955, which is specifically for the payment of school fees for the academic year 2024-2025 (Grade 10) of the child. The FIR cannot determine school fees; similarly, the Passport, Photographs, CD, and Income Certificate are not relevant to this application. The child has now progressed to Grade 11 and is facing financial difficulties in continuing her education. It is the legal and moral duty of the father to ensure that she receives proper education without financial hindrance.

The application is nothing but a dilatory tactic. It is pertinent to mention that on 31.07.2025, the petitioner openly admitted in the Court that he would pay the school fee expenses of the child (respondent's ward). Despite this admission, he is now filing the present application to reopen evidence unnecessarily. This conduct demonstrates lack of bonafides and is only intended to drag the proceedings, harass the respondent, and delay final disposal. If the application is allowed, he will be seriously prejudiced, as the disposal of the case will be unnecessarily prolonged, causing me irreparable hardship and injustice.

It is well settled that once the case is reserved for judgment, reopening can be permitted only in rare and exceptional circumstances. No such circumstances exist in the present case. Petitioner had no locus standi to file this petition and hence the above petition has no legs to stand and liable to be dismissed in limini with cost. That there is no merit in the above petition and the same is liable to be dismissed in limini. Hence this petition is liable to be dismissed with cost.

4. No oral and documentary evidence adduced by both sides.
5. Heard both sides and perused the records.

6. Point :-

“Whether the petitioners evidence can be reopened?”

The present petition is filed under Section 151 of CPC seeking to reopen the petitioner's side evidence in I.A. No. 2 of 2024 in H.M.O.P. No. 98 of 2022. The petitioner states that certain documents, namely FIR, Passport, Income Certificate, Patta, and photographs with CD, which are crucial to substantiate his case, were inadvertently left unmarked during the earlier stage of evidence. According to him, the omission was neither deliberate nor

wanton, and if the opportunity is denied, he would suffer irreparable hardship.

The respondent has resisted the petition contending that the matter has already been reserved for orders, and that the petitioner cannot be permitted to reopen evidence at this belated stage. It is also urged that the documents now sought to be introduced were already in the petitioner's possession, and that most of them are irrelevant to the limited scope of I.A. No. 2 of 2024, which pertains to educational expenses of the minor child. The respondent further contends that the present move is only to protract proceedings and cause prejudice.

This Court has carefully considered the rival submissions. It is true that reopening of evidence after closure is not ordinarily permissible, particularly after the matter has been reserved for orders. However, the Court is not powerless in appropriate circumstances. Section 151 CPC preserves the inherent jurisdiction of the Court to make such orders as may be necessary for the ends of justice. The test is whether sufficient cause has been shown and whether denial of the opportunity would amount to miscarriage of justice.

In matrimonial disputes, especially where allegations of cruelty and issues touching the welfare of a minor child are involved, it is imperative that both sides are afforded a fair and reasonable opportunity to place all relevant materials before the Court. The documents sought to be produced, though in the possession of the petitioner earlier, are claimed to be of significance for substantiating his case. The omission to mark them earlier has been satisfactorily explained as inadvertent. This Court finds that the balance of convenience leans in favour of affording one final opportunity to the petitioner to adduce the said evidence, subject to appropriate safeguards.

While the apprehension of the respondent regarding delay is not without merit, such concern can be addressed by imposing suitable conditions,

including costs, so that no prejudice is caused. Ultimately, the object of the Court is to do complete justice between the parties, and technicalities should not come in the way of fair adjudication. Accordingly, this Court is of the view that the present application deserves to be allowed in the interest of justice, subject to terms to ensure that the proceedings are not unduly delayed.

Therefore, in the interest of justice and to afford both parties an effective opportunity to present their case, this application deserves to be allowed, subject to payment of costs to the respondent. Hence this point is decided accordingly.

6. Result:

In the result this application is allowed on conditions that,

1) the petitioner shall pay a sum of Rs. 3000.00 (Rupees Three Thousands) only to the respondent on or before 10.10.2025,

2) the petitioner shall pay a sum of Rs. 20,000.00 (Rupees Twenty Thousands) only towards the school fees of her child to the respondent on or before 10.10.2025 and

3) the petitioner shall be ready with his evidence or mark the documents on 13.10.2025.

Call on 13.10.2025.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 26th day of September 2025.

Subordinate Judge,
Madurantakam.

Both sides evidence and Exhibits : Nil.

Subordinate Judge,
Madurantakam.

Fair/Draft Order
I.A No. 2/2025
in
I.A 2/2024
in
H.M.O.P No. 98/2022
D.D: 26.09.2025
Sub Court,
Mathurantakam.