

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF**  
**AT KANCHIPURAM**

**PRESENT: Tmt. Fanny Rajan, B.A., B.L., (Hons)**  
**Principal District Munsif, Kanchipuram**

On Wednesday, the 21<sup>st</sup> day of January 2026

**I.A 13 of 2026**

**and**

**I.A 14 of 2026**

**and**

**I.A 15 of 2026**

**in**

**O.S.No.100 of 2011**

**CNR.No.TNKP08-000167-2011**

Rathinakumar

... 1<sup>st</sup> Petitioner /1<sup>st</sup> defendant

/Versus/

1.T. Theeran

2. T. Vasan

.... Respondents/Plaintiffs

This Petition has come up on 20.01.2026 for final hearing before me in the presence of M/s. Revathy Vasudeven counsel for the Petitioner and M/s. M. Madanagopal, S. Bharathi counsels for the Respondents, upon hearing the argument and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

## **COMMON ORDER**

1. **IA No.13 of 2026:** The petitioner has filed this petition under section 151 of CPC to reopen the 1<sup>st</sup> defendant side evidence for marking of documents and thus render justice.
2. **IA No.14 of 2026:** The petitioner has filed this petition under Order XVIII Rule 17 to recall the petitioner to marking of additional documents stated in the proof affidavit already filed by DW-1 along with documents and thus render justice.
3. **IA No.15 of 2026:** The petitioner has filed this petition under Order VIII Rule 1(A)(3) of CPC to receive the additional documents and thus render justice

**Concise statement of the averments in the affidavit filed by the  
Petitioner in IA No.13 to 15 of 2026:**

4. The petitioner has averred that certain vital and material documents i.e. Ration card standing in the name of Rathinakumar alongwith the name of the adopted son Balamurugan as family member; marriage invitation of the adopted son Balamurugan could not be produce earlier in the suit. Due to his advanced age and age related visual impairment, he was unable to personally identify and collect the relevant records at the earlier stage of the

suit. The said documents were inadvertently misplaced and mixed up with other old records and despite diligent efforts, the same could not be traced earlier.

5. The documents have been traced and have to be marked as exhibits. The said documents are crucial and essential for the just and proper adjudication of the case, particularly to establish the factum of adoption and the long standing recognition of the adopted child within the family and society. Hence, this petition.

**Concise statement of the averments in the counter affidavits filed by the 2<sup>nd</sup> Respondent and adopted by the 1<sup>st</sup> Respondent in IA No. 13 to 15 of 2026:**

6. The respondents have denied the allegations and stated that the petition for recall, reopen and additional documents is filed to drag the proceedings. The case was posted on 22.07.2022 to commence the defendant side evidence and closed on 25.10.2024. Later, the DW2 was examined and closed on 24.11.2025.
7. When the case is posted for arguments, the Respondents had filed their written argument on 06.01.2026. On 07.01.2026, 08.01.2026 and 12.01.2026 the case was posted for Defendant side arguments. Though they

assured to file their written argument on 12.01.2026, they chose to file the instant petitions after going through the Respondents' arguments. A witness can be recalled only when the court thinks fit to question him. The witness cannot be recalled to fill up the omissions and lacunas in the evidence.

8. The documents Nos. 1 to 3 mentioned in the affidavit were already available with him when he had given his evidence at the earlier stage of the case (about 4 years ago). Hence, the Petitioner cannot file this petition at this much to fill up the lapses and omissions in his evidence. The documents which are intended to be marked are adverse to him and incomplete. The 3<sup>rd</sup> document is irrelevant and does not carry any weightage in evidence.
9. The deed of adoption is dated 21.02.2003, thereafter, the 1<sup>st</sup> defendants encumbered the property to the 7<sup>th</sup> defendant by manipulating documents. Hence, the adoption is invalid and documents are manipulated. The documents 1 and 2 are invalid documents. There is no reason to reopen, recall and mark the additional documents. Hence, the petitions are liable to be dismissed.

**POINT FOR CONSIDERATION:**

10. **I.A NO.13 OF 2026:** Whether the petition to re-open the DW1 evidence has to be allowed or not?
11. **I.A NO.14 OF 2026:** Whether the petition to re-call the DW1 has to be allowed or not?
12. **I.A NO.15 OF 2026:** Whether the petition to receive and mark the document has to be allowed or not?

**DISCUSSION AND FINDINGS:**

13. This Court considers the submissions of the learned counsels for the Petitioner and respondents and perused the materials on record. No ocular or documentary evidence has been let in by the Petitioners and Respondents.
14. On perusal of the records, it is found that the Plaintiff evidence was closed on 21.09.2021. Thereafter, the DW1 was examined and evidence closed on 25.10.2024. Whileso, the DW2 was examined in chief on 28.08.2025 and closed on 18.11.2025. The further Dws was closed on endorsement on 24.11.2025 and the case was posted for arguments.

15. At this juncture, I.A.No. 12/2025 for framing additional issues was framed and allowed. The additional issue was framed on 02.01.2026, as sufficient evidence was already let in by both parties regarding the adoption deed and posted the case for arguments. Thereafter, the Plaintiff filed the written arguments. The case was posted for defendant arguments on 06.01.2026, 07.01.2026, 08.01.2026. Whiles, this petition for recall, reopen of DW1 and marking additional documents was filed on 12.01.2026.
16. In the instant case, the Learned Counsel for the Petitioner have specifically contended that the documents were not available at the time of filing written statement or giving evidence, as the DW1 is aged and suffers age related visual impairment. To elaborate on the additional issue framed, the documents are necessary.
17. Per contra the learned counsel for the Respondent contends that the documents are not genuine and irrelevant, the due process has not been followed. It is not in dispute that the document does not pertain to the issue at hand but that the documents are irrelevant and not assisting the case of the Petitioner. Also sufficient opportunity was already for DW1 evidence. This petition is a delay tactic.

- 18.** This court is of the considered view that the reason stated though vague and not reasonable, the Hon'ble Apex Court and the Hon'ble Madras High Court in plethora of cases held that as long as no malafide or abuse of process is explicitly shown, the Courts may take a liberal approach in condoning the reasons for delay and provide an opportunity to the parties to contest their case on merits. In view of the above stated, this Court may adopt a liberal approach in the case of the Petitioners and examines if there is any deliberate negligence or delay in filing the document.
- 19.** This court has considered the arguments of the Learned Counsel for the Respondent alleging that this Petition is filed to delay the proceedings. It is pertinent to note that despite the contention of dragging the proceedings, the said contention appears as a formal defense without any substantive facts or evidence to establish the same.
- 20.** It is true that there is a delay and nearly four years time was available at the stage of DW1 evidence. However, a thorough perusal of records, indicate several interim applications being filed and disposed during that period. Hence, this court considers that the delay does not in any manner point towards a malafide and deliberate delay. Hence, the contention of the Learned Counsel for the Respondent on this behalf is not acceptable.

- 21.** This Court considers that though the reasoning stated by the Petitioner that the documents were misplaced due to the age and age related visual impairment of the DW1 and traced now is without any specific particulars regarding the efforts taken to secure them at the stage of filing written statement in 21.02.2011 or in I.A.No.4/2022 for receiving additional documents which was allowed on 15.12.2022 or while filing the proof affidavit of DW1 in 2022.
- 22.** Upon perusal of the Petitioner's Affidavit and other material records, this Court finds that despite the delay and opportunities provided there is no apparent or deliberate intentional prolonging on the side of the Petitioner or any attempt by the Petitioner to abuse the process of law. Therefore, this Court considers it necessary to adopt a liberal approach as per the well established principle of law in respect of the vague reasoning by the Petitioners and this Court is inclined to permit the Petitioners to file the documents.
- 23.** This court notes that the Respondents have specifically contended that the documents are irrelevant, incomplete and invalid. This Court finds that the leave to file the additional documents, does not in any manner vitiate the right of the Respondent to object to the marking of the document in the

trial. With a view to provide a fair opportunity to the Respondent, the documents may be accepted only subject to admissibility, relevancy and proof which shall be decided at the time of marking of the documents and final arguments as per the established procedure of law.

**24.** The question regarding the admissibility, relevancy and proof shall be discussed as and when arises in the suit and rejecting the document without an opportunity at this stage may result in prejudice to the Petitioner. Hence, this Court concludes that in the interest of justice, the Petitioners ought to be provided with an opportunity to file the additional document produced with this Petition. This Court concludes that there is no impediment to receive the additional documents which are filed along with the petition, subject to the admissibility, relevancy and proof. As the documents have to be let in evidence through DW1, it is necessary to reopen and recall the DW1 evidence.

**25.** Though this court finds that the leave may be granted to file the additional documents and reopen and recall the DW1, it is appropriate to consider if there is any inconvenience caused to the Respondent due to the filing of the instant petitions. This Court upon perusal of the records, noticed that the

instant Petition has been filed at the stage when the case was posted for arguments. As rightly mentioned by the learned counsel for the Respondent, the suit is of the year 2011, this petition is filed on the ground that the documents are necessary to substantiate the petitioner/defendant case.

26. This Court takes judicial note of the law laid down by the Hon'ble Supreme Court in *N. Balakrishnan v. M.Krishnamurthy [1998 (7) SCC 123]* that “*It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.*” From the above stated this court finds that an apparent inconvenience has been caused to the Respondent/Petitioner, due to the instant Petitions when the case is posted at the stage of defendant evidence.

27. Considering the said fact, this court concludes that it is reasonable to order a sum of Rs.1000/- to be paid by the petitioners to the Respondent for the inconvenience caused in I.A.No.13 to 15/2026 each. This Court directs that the Petitioners should be ready for adducing evidence on the next hearing date and should extend full co-operation to the conducting the trial effectively.

**RESULT:**

- 28. I.A.No.13 of 2026:** In the result, this petition is allowed and the DW1 evidence is reopened for the limited purpose of marking the additional documents received in I.A.No.15 of 2026; on the condition that the Petitioner shall pay a sum of Rs.1000/- (Rupees One Thousand only) to the Respondents herein on or before 28.01.2026 and co-operate with the trial by appearing on all the hearing dates until closure of his evidence. Call on 28.01.2026.
- 29. I.A.No.14 of 2026:** In the result, this petition is allowed and the DW1 evidence is recalled for the limited purpose of marking the additional documents received in I.A.No.15 of 2026; on the condition that the Petitioner shall pay a sum of Rs.1000/- (Rupees One Thousand only) to the Respondents herein on or before 28.01.2026 and co-operate with the trial by appearing on all the hearing dates until closure of his evidence. Call on 28.01.2026.
- 30. I.A.No.15 of 2026:** In the result, this Petition is allowed and leave is granted to Petitioner to the produce the document mentioned in the Petition and the same shall be marked subject to admissibility, relevancy and proof; on the condition that the Petitioner shall pay a sum of

Rs.1000/- (Rupees One Thousand only) to the Respondents herein on or before 28.01.2026 and co-operate with the trial by appearing on all the hearing dates until closure of his evidence. Call on 28.01.2026.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 21<sup>st</sup> day January 2026.

PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM

Petitioner and Respondent side witness and document : NIL

PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM