

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF AT

KANCHIPURAM

PRESENT: Tmt. Fanny Rajan.B.A., B.L.,(Hons)

Principal District Munsif, Kanchipuram

Monday, the 11th day of August 2025

I.A. No. 10 of 2025

in

O.S.No. 100 of 2011

CNR No. TNKP08-000167-2011

1. T. Theeran
2. T. Vasan

....Petitioners/ Plaintiff

/Versus/

1. Rathina kumar
2. Balamurugan
3. Murugesan
4. Chellamani
5. Anbazhagan
6. Usha Rani
7. Raja
8. Jayakrishnan (died)

..... 1 ,2,5,6 and 7th Respondents/Defendants

This Petition has come up on 21.07.2025 for final hearing before me in the presence of M/s.Revathy Vasudevan, K. Vasudevan, counsels for the Petitioners and M/s. M.Madangopal, and S. Bharathi counsels for the defendants, 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:

ORDER

1. The petitioner filed this petition under order 8 Rule 1A(3) to the delay in filing the document along with the petition thereby receive and mark the same on his side and render justice.

Concise Statement of the averments in the Petition filed by the Petitioner:

2. The petitioner has averred that the documents are important, he had searched and now submitting them. If the case proceeds without these documents he would be put to great loss and hardship. Therefore, the delay may be condoned and the witness may be examined with this documents. Hence this petition.

Concise Statement of the averments of the Counter filed by 2nd

Respondent/2nd plaintiff and adopted by the 1st Respondent/Plaintiff:-

3. The respondent denied the allegations and the reasons are not acceptable. In respect of document No.1 to 3, the particulars of the registered power of attorney deed dated 10.10.2007 had been mentioned and the registration copy of the said document had not been enclosed along with the said documents. Hence, the

above said 3 documents cannot be received and marked without the registration copy of the power of attorney deed dated 10.10.2007. The documents No. 4, 5 and 6 are all forged documents and the said documents were created by the petitioner and filed in the above case. Hence, the said documents cannot be received and marked in the above case and the petition has to be dismissed.

4. **POINT FOR DETERMINATION:** Whether the Petition to filing the document has to be allowed or not?

DISCUSSION AND FINDINGS:

5. This Court considers the submissions of both the counsels and perused the materials on record. No ocular or documentary evidence has been let in by the Petitioners and Respondents.

6. On perusal of the records, it is found that the Plaintiff evidence was closed on 21.09.2021. Further, the defendant side evidence opened on the said day and the DW1 evidence was closed on 25.10.2024 and at this of further defendant witness stage this petition is filed.

7. In the instant case, the Learned Counsel for the Petitioner have specifically contended that the documents were traced and not filed. Per contra the learned counsel for the Respondent contends that the documents are not genuine and forged, the due process has not been followed. It is not in dispute

that the document does not pertain to the suit property and the issue at hand. The main contention is that without production the power of attorney deed, the Deeds in Document No. 1 to 3 cannot be received.

8. 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.

9. 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. The mere filing of the Petition at the hand with delay alone is not clearly sufficient to hold that the Petitioner deliberately delayed filing this Petition with an intent to delay. Hence, the contention of the Learned Counsel for the Respondent on this behalf is not acceptable.

10. This Court considers that though the reasoning stated by the Petitioner that the documents were not available is without any specific particulars regarding the efforts taken to secure them. Upon perusal of the Petitioner's Affidavit and other material records, this Court finds that 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. The document in question has been recently obtained. 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.

11. 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 or enquiry. 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.

12. The question of the genuineness of the document No.4 to 6 and the fate of Document No.1 to 3 in the absence of the power deed are matters of trial. Any observation or decision on the merits of the documents at this juncture may be

prejudicial to the right of both parties. 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.

13. Though this court finds that the leave may be granted to file the additional documents, it is appropriate to consider if there is any inconvenience caused to the Respondents due to the filing of the instant petitions. This Court upon perusal of the records, notices that the instant Petition has been filed at the stage when the case was posted for defendant further evidence. 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.

14. 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 further evidence. 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.

RESULT:

15. 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 on or before 18.08.2025. Call on 18.08.2025.

Dictated to the typist, who directly typed the same in her Computer, corrected and pronounced by me in open court, this the 11th day of August 2025.

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM

Petitioner and defendant side witness and document : NIL

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM