

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF**

**AT KANCHEEPURAM**

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

**Principal District Munsif, Kancheepuram**

On Monday, the 20<sup>th</sup> day of April 2026

**I.A.No. 8 of 2026**

**and**

**I.A.No. 9 of 2026**

**and**

**I.A.No. 10 of 2026**

**in**

**O.S.No.253 of 2019**

**CNR.No.TNKP08-000649-2019**

Lakshmi

.... Petitioner/Defendant

/Versus/

Prabhakaran

.... Respondent/Defendant

This Petition has come up on 12.03.2026 for final hearing before me in the presence of M/s.E.L. Kannan, A.Dinesh counsels for the Petitioner and M/s.P.Rajamanikkam, G. Bharani counsels for the respondent, upon hearing the arguments of both, perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

## **COMMON ORDER**

1. **I.A. No. 8 of 2026:** The petitioner filed this petition under Order VIII Rule 11(A)(3) of CPC to condone the delay in filing the documents mentioned in the petition and receive the documents and thus render justice
2. **I.A. No. 9 of 2026:** The petitioner filed this petition under Section 151 CPC to reopen the DW1 side evidence for marking of documents and thus render justice.
3. **I.A. No. 10 of 2026:** The petitioner filed this petition under Order XVIII Rule 17 to recall the chief examination for DW1 and thus render justice.

**Concise statement of the averments in the affidavit filed by the Petitioners in IA No. 8 to 10 of 2026:**

4. The petitioner has averred that on 12.11.2025 the above case was posted for defendant side witness. As certain material documents were misplaced and not traceable it could not be filed with her proof affidavit. Now she applied and received the said documents in SRO office. No prejudice would be caused if this petition is allowed. Hence this petitions to condone the delay, reopen and recall.

**Concise statement of the averments in the counter affidavit filed by the**

**Respondent in I.A. No.8 to 10 of 2026:**

5. The respondent has denied all the allegations and stated that when she filed the statement she has mentioned what are documents she had. She did not come to this Court properly for giving evidence. Already I.A.No. 6 of 2025 and I.A.No. 7 of 2025 were filed to condone delay in filing documents and allowed. Whereby already ten documents are marked. The Petitioner wanted to skip some facts and evade the subject matter. There is no reason stated regarding why the documents were not filed with the earlier petitions. Hence, the petitions are liable to be dismissed.

**POINT FOR CONSIDERATION:**

6. **I.A NO.8 OF 2026:** Whether the petition to condone the delay of filing the documents has to be allowed or not?

7. **I.A NO.9 OF 2026:** Whether the petition to re-open the has to be allowed or not?

8. **I.A NO.10 OF 2026:** Whether the petition to re-call has to be allowed or not?

## **DISCUSSION AND FINDINGS:**

9. This Court considers the submissions of both the counsels for the Petitioner and respondent and perused the materials on record. No ocular or documentary evidence has been let in by the Petitioner and Respondent.

10. On perusal of the records, it is found that the Plaintiff evidence in chief was commenced on 14.09.2023 and closed on 20.02.2024. The PW1 cross examination 16.11.2024. Subsequently, the plaintiff evidence was closed on 16.12.2024. Thereafter, at the defendant evidence stage, the recall and reopen of PW1 evidence was filed and allowed in I.A.No.4/2025 and I.A.No.5/2025 on 24.07.2025 and PW1 was cross examined in full and closed.

11. At this juncture, the Petitioner herein filed I.A.No.6 of 2025 and I.A.No.7 of 2025 for receipt of additional documents on 28.07.2025 and 15.09.2025. The said interim applications were allowed on 11.08.2025 and 06.10.2025. Accordingly, the DW1 had been examined in chief and Ex.B1 to Ex.B10 have already been marked. The DW1 chief was closed on 14.10.2025 and posted for DW1 cross examination. The DW1 cross examination was completed in full on 12.11.2025 and posted for further Defendant witness since 12.11.2025. Whiles, this petition are filed for reopen, recall and additional documents of the DW1.

**12.** This court finds that the Petitioner claims that he wants to mark this additional document on the ground that the documents were misplaced, not traceable and have obtained as certified copies from the Sub Registrar office. It is noted that the proposed additional document is a Will dated 06.09.2001. The certified copy was issued on 14.11.2025.

**13.** Whiles, this petition is filed only on 07.01.2026. It is also noted that there is a specific pleading about the said Will in written statement filed on 16.04.2021 and the DW1 proof affidavit filed on 28.08.2025. However, the Petitioner clearly failed to produce the Will at the first available instance. Even assuming the original is misplaced, the certified copy could have been filed with the DW1 proof affidavit, I.A.No.6 of 2025 or I.A.No.7 of 2025. However, there is no mention about the same in the said affidavits. Also, the document reflects that the certified copy itself was applied on 14.11.2025. Thus, it is clear that the Petitioner failed to exercise necessary diligence in filing this document at the earliest possible instance.

**14.** This court finds that except for mentioning that the document is traced and filed, there is no specific reason quoted to show sufficient cause for the delay in

filing this document either with the written statement or atleast with the earlier I.A.No.6 and 7 of 2025 to receive additional documents.

**15.** The document even assuming is vital to the case, it is the duty of the Petitioner to bring it to the court at the first instance. Even assuming the document is vital, this court cannot entertain the delay without being satisfied with the reason for the delay or its bonafide. The suit is more than 6 years old. The document is more than 25 years old. The certified copy has been applied and issued on 14.11.2025 by the Joint II registrar, Kancheepuram. So it is the duty of the Petitioner to establish why the document could not be produced earlier.

**16.** The court cannot entertain the reason of misplacement in the absence of due pleadings regarding the said misplacement, the place of misplacement and how misplaced and when traced. Apart from that the document is only a certified copy and not the original. Thus, even assuming the original is misplaced, the Petitioner always had the opportunity to produce a certified copy as now. There is no proper pleadings regarding the diligence exercised by the Petitioner to either trace the allegedly misplaced document or obtain a certified copy and file it in court at the earliest.

**17.** Conclusively, this court finds that there is no specific reason quoted to explain the failure of the Petitioner to produce this document at the first instance. The justification quoted is not assisting the Petitioner's case, in absence of material pleadings regarding the same. The reasoning is very vague and appears to be formal. In fact, the Petitioners have also failed to plead about the earlier petition in I.A.No.6 and 7 of 2025 filed for receipt of additional documents in this suit. There is no pleading to explain the new change in circumstance warranting the filing of a fresh application for the same relief. Also no pleading is available to substantiate why this petition is not barred by constructive res judicata.

**18.** The court cannot assist a party who has failed to exercise due diligence and proceed with his case irrespective of the merits of the documents. The conduct of the petitioner clearly indicates that lack of bonafides and diligence on the part of the Petitioners. As the petition for additional documents is itself liable to be dismissed, there is no reason to reopen and recall DW1 for examination. Hence, this court is inclined to dismiss the petition for reopen and recall the DW1 evidence and receive additional document.

19. Considering the nature of the case and dispute between the parties, this court finds that the parties shall bear their own cost.

**RESULT:**

20. **I.A NO.8 OF 2026**: In the result, this Petition is dismissed. No costs.

21. **I.A NO.9 OF 2026**: In the result, this Petition is dismissed. No costs.

22. **I.A NO.10 OF 2026**: In the result, this Petition is dismissed. No costs.

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 20<sup>th</sup> day April 2026.

PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM

**Petitioner and Respondent side witness and documents: NIL**

PRINCIPAL DISTRICT MUNSIF  
KANCHEEPURAM