



Fair Order / ~~Draft Order~~

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.

Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)

District Munisf, Vadipatti

Dated this the 17th day of September 2025

IA. No.01 / 2025

In

O.S. No.51 /2021

CNR. No.TNMD190000652021

1. M. Chellam,
S/o. Muthirulandi
2. G. Thulasi,
S/o. Gurunathan
3. G. Paneerselvam,
S/o. Gurunathan

---- *Petitioners / Defendants*

//Versus//

M. Moorthy,
S/o. Mariappan

---- *Respondent / Plaintiff*

This petition was filed before this Court on 30.06.2025 coming before me for final hearing on 17.09.2025, Advocate Thiru. P. Manivannan appeared for Petitioners / Defendants and Advocate Thiru. V. Nagendran appeared for Respondent / Plaintiff. Upon hearing the arguments advanced by both the sides' counsel and upon perusing the available material records, today this Court has delivered the following....

ORDER

1. This petition was filed under order 8 rule 1 A (3) of CPC to file additional documents by the petitioner / 3rd defendant in the main suit.

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2. **Petition averments in brief:**

The petition contention was that, the petitioner was the 3rd defendant in the main suit. The respondent filed the main suit for Permanent injunction. Further the petition contention was that, the documents filed with this petition could not be filed along with the written statement since there was a delay in obtaining the said documents from the registration department and also finding from the houses of the respondents. The documents mentioned in the petitions were necessary for the main case. Hence, the petitioner / 3rd defendant filed this petition, seeking leave of this court to file additional documents.

3. **Counter averments in brief:**

The respondent / plaintiff filed counter by denying the entire petition contentions and stated that the petition mentioned documents were not filed with the written statement and they were not connected to the suit. The petitioner had not taken any step to file those documents for the past 4 years. This petition was filed only after the plaintiff's side evidence was closed. The reason for delay was not explained with proof. This petition was only filed to delay the suit proceedings. Hence this petition is liable to be dismissed.

4. The petitioner filed 10 documents with this petition, which are as follows: 1.Patta No.132 for S.No.9/1, 2. Mortgage deed dated 09.04.1919, 3 and 4 were the Encumbrance certificates for the periods of 1919-1940 and 1941-1974, 5. Tahsildar Certificate dated 08.11.2002, 6. Mortgage deed dated 21.06.1966, 7. Encumbrance Certificate for the period of 1949 – 1974, 8. Notices from Tahsildar Office, Vadipatti, 9. Sale deed dated 05.07.2017 and 10. Photographs. The respondents did not let in any evidence in this proceedings.



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5. **Point for determination :** Whether this petition can be allowed?

i. Heard both sides. Records perused. Admittedly the main suit was filed for Permanent injunction. The suit pending for defendants side evidence. The petitioner / 3rd defendant had filed this petition to receive additional documents on the defendants side. The petitioner's contention was that the petition mentioned documents were necessary to decide the suit. On the other hand, the respondent challenged the petition stating that the documents filed with this petition were not filed at the time of filing of written statement and the reason for delay in filing this petition to file additional documents was not explained properly by the petitioner in his affidavit.

ii. **This petition was filed under order 8 rule 1A of C.P.C., it runs as follows,**

“Order 8 rule 1A. Duty of defendant to produce documents upon which relief is claimed or relied upon by him.- (1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set off or counter claim, he shall enter such document in a list, and shall produce it in court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to documents—

(a) produced for the cross-examination of the plaintiff's witnesses, or

(b) handed over to a witness merely to refresh his memory. ”



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Thus, according to the above provision the documents that were relied upon by the defendant shall be listed out and filed along with the written statement. If it was not in his possession then the defendant must disclose the possessor of the document. Further, the document not filed with the written statement can only be filed with the leave of the court.

iii. In the case in hand from perusing the entire records, the petitioner / defendant had stated in his petition that the document intended to be filed was necessary to decide the main suit. In this juncture, this court relies upon the judgment of **our Hon'ble Supreme Court in Levaku Pedda Reddamma V. Gottumukkala Venkata Subbamma**, dated 17.05.2022 as;

“ We find that the trial Court as well as the High Court have gravely erred in law in not permitting the defendants to produce documents, the relevance of which can be examined by the trial Court on the basis of the evidence to be led, but to deprive a party to the suit not to file documents even if there is some delay will lead to denial of justice. It is well settled that rules of procedure are hand-maid of justice and, therefore, even if there is some delay, the trial Court should have imposed some costs rather than to decline the production of the documents itself. Consequently, the appeal is allowed. ”

In the light of the above mentioned dictum of our Hon'ble Supreme Court, it was clarified that the procedure is only hand - maid of justice and the relevancy of the document that were sought to be filed must be tested only in trial, hence the petitioner / 3rd defendant can be permitted to file additional document even with delay by imposing cost.

iv. By following the above cited dictum of our Hon'ble Apex Court in the case in hand, this court is of the view that in spite of the procedural lacuna on the part of the petitioner / 3rd defendant, that the document was not filed initially, but in order to provide fair opportunity to the parties, this petition can be allowed to let in the documents on the petitioner / 3rd defendant side to counter the plaintiff's case. Further, the respondent had



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averred that the documents were not connected to the suit but the petitioner in his affidavit had pleaded that the petition mentioned documents were necessary to decide the main suit, hence there cannot be any procedural irregularity in allowing the petitioner / 3rd defendant to file the documents as defendants side evidence. Further in the main suit, the plaintiff's side evidence was only closed on 24.04.2025 and this petition was filed during the stage of defendants side evidence, hence this petition was not filed to drag on the proceeding. In such circumstance, this court is not inclined to impose cost to the petitioner. The relevancy and admissibility of the documents filed shall be dealt in trial proceeding.

6. **In the result**, this petition is allowed, no cost.

Directly dictated to the Stenographer and computerized, error checked and pronounced in the open court on 17th day of September 2025.

District Munsif,
Vadipatti.

Petitioners side evidence : Nil

Petitioners side documents :

1.	Patta No.132 for S.No.9/1,
2.	Mortgage deed dated 09.04.1919
3.	Encumbrance certificate for the period of 1919-1940
4.	Encumbrance certificate for the period of 1941-1974
5.	Tahsildar Certificate dated 08.11.2002
6.	Mortgage deed dated 21.06.1966
7.	Encumbrance Certificate for the period of 1949 – 1974
8.	Notices from Tahsildar Office, Vadipatti



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9.	Sale deed dated 05.07.2017
10.	Photographs.

Respondent side evidence and documents: Nil

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