

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.**Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)**

District Munsif, Vadipatti

Dated this the 09th day of July 2025**CNR.No.TNMD190000742020****IA. No.01/2025****In****O.S. No.53/2020**

D. Ungusamy,

S/o. Late. Durairaj Ambalam

---- *Petitioner / Plaintiff****//Versus//***

1. M. Murugesan
S/o. Late. Palaniyandi Ambalam
2. M. Malayalam,
S/o. Late. Palaniyandi Ambalam
3. M. Moorthy,
S/o. Muthu
4. M. Arun,
S/o. Muthu
5. M. Prabhu,
S/o. Muthu
6. Padma @ Padmavathy.
W/o. Late. M. Muthu

---- *Respondents / Defendants*

This petition was filed before this Court on 04.01.2025 coming before me for final hearing on 09.07.2025, Advocate Thiru. S. Anand Chandrasekar appeared for Petitioner / Plaintiff and Advocate Thiru. V. Arichandran appeared for the

Respondents / Defendants. Upon hearing the arguments advanced by both the sides' counsels and upon perusing the available material records, today this Court has delivered the following....

ORDER

1. This petition was filed under order 7 rule 14 (3) of CPC to file additional documents by the petitioner / plaintiff in the main suit.

2. **Petition averments in brief:**

The petition contention was that, the petitioner is the plaintiff in the main suit. The main suit was filed seeking declaration and permanent injunction against the respondents. Further the petitioner contended that, the suit was at the stage of trial. The documents mentioned in the petition were necessary for the main case. Hence, the petitioner / plaintiff filed this petition, seeking leave of this court to file additional document.

3. **Counter averments in brief:(Counter of R1 adopted by R2 to R5)**

The respondents / defendants filed counter by denying the entire petition contentions and stated that the petitioner cannot claim title over the suit property as the property belong to this respondents and they were in possession of the petition property. The partial release deed filed by the petitioner was a deed prepared only for the present case. The dates mentioned in the deed have been corrected and the deed has not been registered. There was no evidence of registration in the deed. Thus the documents filed by the petitioner was a forged document. If this petition allowed, it will cause hardship and loss to the respondents. Hence the petition is liable to be dismissed with costs.

Point for determination : Whether this petition can be allowed?

i. Records perused. Admittedly the main suit was filed for declaration and permanent injunction. The suit was pending for trial. The petitioner had filed this petition to receive additional document on the plaintiffs' side. The petitioner's contention was that the petition mentioned document was necessary to decide the suit. On the other hand, the respondents challenged the petition stating that the petition mentioned document was filed by suppressing material facts, to delay the suit.

ii. The petitioner had filed a document; 1) Partition deed dated 30.11.1992, executed between plaintiff and his brother. The respondents did not file any documents.

iii. This petition was filed under Order 7 rule 14(3) of C.P.C., the proceeding runs as follows,

“Order 7 rule 14(3). Production of document on which plaintiff sues or relies.

(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

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

(3) A document which ought to be produced in court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, 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 document produced for the cross-examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory....

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

iv. In the case in hand from perusing the entire records the petitioner / plaintiff 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 / plaintiff can be permitted to file additional document even with delay by imposing cost.

v. **Further our Hon'ble High Court of Madras in N.Dhara (deceased) and 05 others v. G. Srinivasan dated 12.04.2022 had held as;**

“12. The unregistered partition deed though not admissible in evidence to prove the terms of the partition, can be admitted in evidence for proving the stages 1 and 3 namely, the division in status and nature and character of possession of the sharers, these being collateral purposes.

13. At this juncture, it is appropriate to extract Section 49 of the Registration Act.

(c) be received as evidence of any transaction affecting such property or conferring such power, unless it has been registered:

[Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882 (4 of 1882), to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877 (I of 1877) (See now the Specific Relief Act, 1963) (The expression “or as evidence of part performance of a contract for the purposes of section 53A of the Transfer of Property Act, 1882 (4 of 1882)” were omitted by the Registration and other related Laws Amendment Act 2001 (48 of 2001) w.e.f. 24-9-2001) or as evidence of any collateral transaction not required to be effected by registered instrument.]”

Thus our Hn'ble High Court has decided as unregistered partition deed is not admissible to prove partition but it can be marked to prove the division in status, nature and character of possession of the sharers, as collateral purposes.

vi. By following the above cited dictum of our Hon'ble Apex Court in the case in hand, this court is of the view that inspite of the procedural lacuna on the part of the petitioner / plaintiff, that the documents were not filed initially, in order to provide fair opportunity to the parties, this petition can be allowed to let in the documents on the petitioner / plaintiff side to prove his case. Further the respondents had averred that the documents was fraudulent one and it was unregistered but the petitioner in his affidavit had mentioned that the petition mentioned document was necessary to decide the case. Also the partition deed was only a registered document. Thus from considering the petitioner side contention there cannot be any procedural irregularity in allowing the petitioner / plaintiff to file the documents as plaintiff side evidence. No prejudice shall be caused to the respondents in permitting this petition.

5. ***In the result***, the petition is allowed, without cost.

Directly dictated to the Stenographer and computerized, error checked and pronounced in the open court on the 09th day of July 2025.

District Munsif,
Vadipatti.

Petitioner side evidence: Nil

Petitioner side documents :

1.	Partition deed dated 30.11.1992, executed between plaintiff and his brother
----	---

Respondents side evidence and documents: Nil

District Munsif,
Vadipatti.

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

IA. No.01/2025

In

O.S. No.53/2020

Date : 09.07.2025