

**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 05<sup>th</sup> day of August 2025****IA. No.02 / 2025****In****O.S. No.69/2018****CNR. No.TNMD190000792018**

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1. Soundaralatha,  
D/o. Subbu
2. Shankar Ganesh,  
S/o. Muniyappan

**---- *Petitioners / Defendants******//Versus//***

1. K. Subramanian,  
S/o. Karuppaiah Naidu
2. Shanthi,  
D/o. Karuppaiah Naidu

**---- *Respondents / Plaintiffs***

This petition was filed before this Court on 18.06.2025 coming before me for final hearing on 05.08.2025, Advocate Thiru. J. John appeared for Petitioners / Defendants and Advocate Thiru. M. Chelladurai appeared for Respondents / Plaintiffs. 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 / defendant in the main suit.

2. **Petition averments in brief:**

The petition contention was that, the petitioners were the defendants in the main suit. The respondents filed the main suit for declaration, permanent and mandatory injunction. Further the petition contention was that, the documents filed with this petition could not be filed along with the written statement since the documents were filed in the bank for a mortgage loan availed by the petitioners. The documents mentioned in the petitions were necessary for the main case. Hence, the petitioners / defendants filed this petition, seeking leave of this court to file additional document.

3. **Counter averments in brief:**

The respondents / plaintiffs 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 petitioners had not taken any step to file those document for the past 7 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 hence, this petition must be dismissed.

4. The petitioners to prove their case had filed 8 documents with this petition ; 1 to 3 documents were the sale deeds in the name of 1<sup>st</sup> petitioner dated 06.11.2017 and 13.09.2017, 4. Building plan in the name of 1<sup>st</sup> petitioner dated 15.06.2018, 5. Patta Nos.120 and 499 in the name of 1<sup>st</sup> petitioner dated 16.02.2024, 6. FMB extract for the Survey No.849 dated 30.08.2024, 7. Property tax receipts in the name of the 1<sup>st</sup> petitioner / 1<sup>st</sup>

defendant and 8. Patta in the name of 2<sup>nd</sup> respondent / 2<sup>nd</sup> plaintiff. The respondents did not file any documents to prove their case.

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

i. Heard both sides. Records perused. Admittedly the main suit was filed for declaration, permanent and mandatory injunction. The suit was pending for defendant side evidence. The petitioners / defendants 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 respondents 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.

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. ”

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 petitioners / defendants 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 petitioners / defendants can be permitted to file additional documents 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 petitioners / defendants, that the documents were 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 petitioners / defendants side to counter the plaintiff's case. Further, the respondents had averred that the documents were not connected to the suit but the petitioners 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 petitioners / defendants to file the documents as defendants side evidence. Further in the main suit, the plaintiff's side evidence was only closed on 02.04.2025 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 petitioners. 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 05<sup>th</sup> day of August 2025.*

District Munsif,  
Vadipatti.

**Petitioners side evidence : Nil**

**Petitioners side documents :**

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|----|--|
| 1. | Sale deed in the name of 1 <sup>st</sup> petitioner dated 06.11.2017     |
| 2. | Sale deeds in the name of 1 <sup>st</sup> petitioner dated 06.11.2017    |
| 3. | Sale deeds in the name of 1 <sup>st</sup> petitioner dated 06.11.2017    |
| 4. | Building plan in the name of 1 <sup>st</sup> petitioner dated 15.06.2018 |
| 5. | Patta Nos.120 and 499 dated 16.02.2024                                   |
| 6. | FMB extract for the Survey No.849 dated 30.08.2024                       |

|    |   |
|----|---|
| 7. | Property tax receipts in the name of the 1 <sup>st</sup> petitioner / 1 <sup>st</sup> defendant |
| 8. | Patta in the name of 2 <sup>nd</sup> respondent / 2 <sup>nd</sup> plaintiff                     |

**Respondents side evidence and documents: Nil**

District Munsif,  
Vadipatti.

DISTRICT MUNSIF COURT

Vadipatti

*Fair Order/~~Draft Order~~*

*IA. No.02/2025*

*In*

*O.S. No.69/2018*

**Date : 05.08.2025**