

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

District Munisf, Vadipatti

Dated 05th day of February 2025**IA. No.02 / 2024****In****O.S. No.103 /2019**

1. Bose,
S/o. Choathan

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

1. Choathan (Died),
S/o. Pitchan Ambalam
2. Alagu,
S/o. Choathan
3. Muthumani,
S/o. Pitchai Mani
4. Palaniyandi,
S/o. Choathan
5. Gowtham,
S/o. Pitchai Mani
6. Murugan,
S/o. Pitchai Mani
7. Pitchai,
S/o. Choathan

8. Murugesan,
S/o. Alagu

---- ***Respondents / Defendants***

This petition was filed before this Court on 05.12.2024 coming before me for final hearing on 05.02.2025, Advocate Thiru. C. Kannan appeared for Petitioner / Plaintiff and Advocate Thiru. M. Vijayakumar appeared for R2 and R8. R1 died. R3 to R7 set ex-parte. 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 7 rule 14 of CPC of C.P.C. 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 suit was filed for Partition, declaration and permanent injunction. The petitioner / plaintiff was not able to file the documents mentioned in the petition at the time of filing of this suit, since the documents were kept in the unused trunk box in his house. 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 documents.

3. **Counter averments in brief: (Counter of R2 adopted by R8)**

The respondents / defendants filed counter by denying the entire petition contentions and stated that the petition mentioned documents were irrelevant, dated after filing of this suit and they were not connected to the suit. The petitioner had not take any step to file those additional documents for the past 5

years. The reason for delay in filing this documents should be explained with proof. This petition was only filed to delay the suit hence, this petition must be dismissed.

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

i. Records perused. Admittedly the main suit was filed for Partition, declaration and permanent injunction . The suit was pending for trial. The petitioner had filed this petition to receive additional documents on the plaintiff 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 petition mentioned documents were in no way connected to the suit and the documents were recent documents.

ii. The petitioner filed documents with this petition which are, 1. Kist receipts (Series No.9), 2. Electricity receipts (Series No.2), 3. Reply of the Sub Registrar Office, Alanganallur and 4. Patta no.82 in the name of 1st respondent. The defendants did not file any documents to prove their case.

iii. This petition was filed under Order 7 rule 14(3) of C.P.C., it 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 documents intended to be filed were 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. 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 respondent had averred that the documents were not connected to the suit but the petitioner in his affidavit had mentioned that the petition mentioned documents were necessary to decide the case, hence there cannot be any procedural irregularity in allowing the petitioner / plaintiff to file the documents as plaintiff side evidence. Hence as directed by the judgment of our Hon'ble Apex Court relied above, this court is inclined to allow this petition with cost.

5. ***In the result***, the petition is allowed, with cost of Rs.500/- to be paid to the respondents within 6 days from the date of this order.

Directly dictated to the Stenographer and computerized, error checked and pronounced in the open court on 05th day of February 2025.

District Munsif,
Vadipatti.

Petitioner side evidence and documents : Nil

Petitioner side documents :

1.	Kist receipts (Series no.9)
2.	Electricity receipt (Series no.2)
3.	Reply of the Tahsildar, Alanganallur
4.	Patta No.82 in the name of 1 st respondent

Respondents side evidence and documents: Nil

District Munsif,
Vadipatti.

DISTRICT MUNSIF COURT

Vadipatti

Fair Order/~~Draft Order~~

IA. No.02/2024

In

O.S. No.103/2019

Date : 05.02.2025