

TNRM010014992021



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**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
RAMANATHAPURAM.**

**PRESENT: THIRU.A.K. MEHBUB ALI KHAN, B.L.M.,L.L.M.,
PG.D.PM/IR.Dip.in.J.J & J.Psy.,
PRINCIPAL DISTRICT JUDGE,
RAMANATHAPURAM.**

Thursday, the 13th day of February 2025

**I.A.No. 09/2024 in
O.S. No. 28/2021**

01. Mrs. Uma Maheswari,
W/o. Late.R.T. Raghunathan
02. Ramyadevi,
D/o.Late. R.T. Raghunathan
03. Mrs. Yogarani,
D/o. Late. R.T. Raghunathan
04. Mr. Narendraraja,
S/o. Late. R.T. Raghunathan

(All are residing at Old No.37, New
No.164, Vivekanandar Salai,
Sigil Raja Veethi,
Ramanathapuram Town,
Ramanathapuram District.)

... Petitioners/ Defendants

-vs-

01. Mr. R. Ramamurthy,
S/o. Mr. Ramani,
No.14/7, Magar Noombu Pottal
Road, Faizal Nagar, Kenikkarai,
Ramanathapuram.



02. Mrs. Banumathi,
S/o. Late. Ravindranathan,
No.6A, Barathipuram 19th Street,
Karupayuram, Melamedai,
Madurai – 625 020.

03. Mrs. Rajeshkumari,
W/o. Aruldas,
D/o. Late. Ravindranathan,
No.3/212, North Street,
Paralachi,
Virudhunagar – 626 114.

04. Radhika,
D/o. Late. Ravindranathan,
No.6A, Barathipuram 19th Street,
Karuppayuram, Melamadai,
Madurai -625 020.

.... Respondents/Plaintiffs

05. Nageshwari,
D/o. Late. Ramani,
No.40, Manmalaimedu, Behind
John Bosco School,
K.Pudur, Madurai.

... Respondent/ 5th
defendant

This petition came on 04.02.2025 before this Court for final hearing in the presence of Tmt. Manohari, Advocate for the petitioners/Defendants and Thiru. Ganeshkumar, Advocate for the Respondents/Plaintiffs and 5th defendant and on heard their arguments and on perusal of records, this Court delivers the following:

ORDER



The petition filed by the Petitioners/Defendants under Order 18 Rule 17 of Civil Procedure Code to recall the D.W.1.

2. The contention of the petitioner in brief:

The petitioners are the defendants in this suit which was filed by the Respondents/Plaintiffs for partition. The case was posted for further defendant side witnesses. While cleaning the house during Diwali, these petitioners traced out some essential documents relating to the case. Hence, they have to file those documents on their side for which D.W.1 has to be recalled. The delay in producing the documents and filing this petition is neither willful nor wanton. Unless the petition is allowed and the D.W.1 is recalled for marking the documents by receiving the additional documents, the petitioners would be put to irreparable loss and hardships. Therefore, the petitioners pray to allow the petition.

3. The contentions of the respondents :

The respondents have filed detailed counter interalia stating that the petition is not maintainable. Two witnesses were examined on the side of the defendants and this application is filed to receive additional documents and to recall D.W.1. The documents filed by these petitioners are not connected with the case and they were not mentioned or pleaded in



the written statement. The documents filed by the petitioners are not authenticated certified copies and hence they cannot be received. The documents are only photo copies and they are inadmissible in evidence. The petitioners have not produced the negative or the C.D. of the photographs that are sought to be marked on their side. Hence, the petition is filed only to fill-up the lacuna and as an after thought. Had these documents were really important, the petitioners would have filed the documents along with the will. Hence, the petition must be dismissed.

4. Point for consideration in this petition is “ **Whether the petition be allowed and D.W.1 be recalled?**”

5. No documents were filed on either side.

6. Heard the arguments on both sides.

7. **Answer to Point**

The suit is filed for the relief of partition by the 1st respondent/plaintiff. These defendants have contested the case. It is relevant to note that these petitioners had filed a similar application under Order 18 and Rule 17 of C.P.C. in I.A. No. 08/2024 to recall D.W.2. The same was allowed on 21.10.2024. It is to be noted that the petitioners have not given the details of the documents that are sought to be marked through



D.W.1. Though a separate petition was subsequently filed in I.A. No.10/2025 and posted for notice of hearing and counter, these petitioners have not given those details in this petition. However, they have stated that the documents were only traced recently during Diwali and hence they are seeking an opportunity to mark them through D.W.1.

7.1 The objections raised by the respondents/Plaintiffs that those documents are not relevant and are inadmissible can be decided only at the time of marking of those documents. Whether the documents are admissible or not cannot be decided in this petition. The reason given by the petitioner is acceptance and this Court deems it appropriate that an opportunity must be given to the defendants to prove their case. Therefore, in order to avoid further delay, this Court is of the considered opinion that the petition shall be allowed on payment of costs. Therefore, it is held that the petition will be allowed on payment of cost of Rs.1000/- to the Respondents/plaintiffs and on deposit of Rs.2,500/- in the District Mediation Centre, Ramanathapuram on or before 23.02.2025 failing which the petition shall stand dismissed.

In the result, the petition will be allowed on payment of cost of

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Rs.1000/- to the respondents/Plaintiffs and on deposit of Rs.2,500/- in the District Mediation Centre, Ramanathapuram on or before 23.02.2025 failing which the petition shall stand dismissed. Call on 24.02.2025.

Dictated to Executive Assistant and transcribed and typed by her in computer, corrected and pronounced by me in open Court on this the 13th day of February 2025.

Sd/Thiru.A.K.MEHBUB ALIKHAN,
Principal District Judge,
Ramanathapuram.

Witnesses and documents on either side: NIL

Sd/Thiru.A.K.MEHBUB ALIKHAN,
Principal District Judge,
Ramanathapuram.