



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

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

**Friday, the 20<sup>th</sup> day of December 2024**

**I.A.No. 9/2024  
in  
O.S.No.90/2023**

Rajendran ... Petitioner/Plaintiff

-vs-

Muniyae @ Muniammal Respondent/Defendant

This petition came on 11.12.2024 before this Court for final hearing in the presence of Thiru. K.Nagarajan, Advocate for the petitioner/Plaintiff, and Thiru. M. Aruputharaj, Advocate for the respondent/ Defendant and on perusal of records, this Court delivers the following:

**ORDER**

The petition is filed by petitioner/Plaintiff under Order 18 Rule 17 of Civil Procedure Code.

**2. The contention of the petitioner in brief:**

The petitioner states that he has filed the suit for declaration and for other relief and he was examined as PW1. He has further stated that the suit properties and other properties originally belonged to Raman Nadar by way of purchase under a



sale deed dated 29.11.1948. After his demise, his children orally divided the properties and were enjoying their respective shares. Out of such legal heirs, his daughter Pushpavalli and son Subramanian have sold their shares to the plaintiff. The other shares of Raman Nadar's property were sold by his another daughter Kaliasammal to Vishwanathan on 24.11.2005 and another daughter Muniyammal has sold her share to Pandi on 13.03.2006. Both the said sale deeds are necessary documents for this case and the plaintiff had taken summons to the said purchasers namely Viswanathan and Pandi to produce these original sale deeds. Accordingly, the said Viswanathan appeared before the court and was examined as PW2 and his sale deed was produced. But the other purchaser Pandi did not appear before the court and did not produce his Sale deed. Therefore, it is absolutely necessary that a copy of the said Sale deed be produced before the court for which PW1 has to be recalled and examined. Unless PW1 is recalled and a copy of the said document namely sale deed dated 13.03.2006 is marked he would be put to irreparable loss and hardships. So, he prays to allow the petition.

3. **The contentions of the respondent in brief:**

The respondent /defendant has filed objections interalia stating that the petitioner has filed the petition only to delay the proceedings and to prevent the defendatn from enjoying the properties obtained under the partition deed. Though PW1 was examined on 04.06.2024 the plaintiff side evidence is not yet closed even



after expiry of six months . The reason given by the petitioner to recall PW1 that the witness did not produce the document is not acceptable. The said documents is irrelevant to the suit and it was not pleaded of the petitioner. So, he prays to dismiss the petition with cost.

4. Point for consideration in this petition is “ **Whether the petition be allowed ?**”.

5. No oral or documentary evidence was let in by either party.

**Answer to Point**

6. The petitioner/plaintiff has filed the suit for declaration of his Title and also to declare that the preliminary decree and the final decree passed in O.S.No.31/2010 dated 30.08.2011 is not binding upon him. Admittedly, plaintiff was examined as PW1 and thereafter one Viswanathan another purchaser from the legal heirs of Raman Nadar was examined as PW2. Since, Pandi the other purchase from the other purchaser Pandi also one of the legal heir of the Raman Nadar did not appear before the court and produced the document, the petitioner has to examine himself and mark a copy of the said sale deed dated 13.03.2006. It is important that sufficient opportunities must be given to the parties to establish their case and just because the proceedings are delayed they cannot be compelled to close evidence. Therefore,



in this case also the plaintiff shall be given an opportunity to establish his case by marking the said sale deed. It is to be noted that the respondent would get an opportunity to cross examine the witnesses and no serious prejudice would be caused to her. There is no illegality to recall PW1, to mark the said document.

7. On the other hand if the petition is dismissed, the petitioner would be put to serious hardships, and his valuable right to property would be affected.

8. However the hardships caused to the respondent shall be compensated by way of cost. Accordingly, it is held that the petition will be allowed on payment of cost of Rs.1000/- to the respondent on or before 09.01.2025 . This point is decided accordingly.

In the result, this petition will be allowed on payment of cost of Rs.1000/- to the respondent on or before 09.01.2025, failing which the petition shall stand dismissed Call on 10.01.2025.

Dictated to Steno-typist and transcribed and typed by her in computer, corrected and pronounced by me in open Court on this the **20<sup>th</sup> day of December 2024.**

Principal District Judge,  
Ramanathapuram.