

**In the Court of the Subordinate Judge of Sankari.**

Present:- Thiru.N. Pannerselvam, B.A.B.L.,  
Subordinate Judge, Sankari.

Wednesday, the 21<sup>st</sup> day of January, 2026

**I.A.16/2026 in O.S.118/2008**

Vijayalakshmi ... Petitioner / Defendant No.10

//Versus//

1. Raju @ Raja  
2. Sekar  
3. Nallammal

... Respondents / Plaintiffs

This petition taken to file on 20.01.2026 and coming on this day for hearing before me in the presence of Thiru. R. Sekar and P. Gokul Advocates for the Petitioner and of Thiru. A.K. ilanchazhian Advocate for Respondents and after perusing the Petition, counter and hearing on both side arguments this Court passed the following,

**ORDER**

This Interlocutory Application has been filed by the Petitioner Under Order 8, Rule 1 (A) (3) and Section 151 of the Civil Procedure Code to condone the delay of filing petition mentioned documents and marked as exhibits on the side of petitioner/10<sup>th</sup> defendant.

**2) The Gist of the petition:-**

The petitioner is the 10<sup>th</sup> defendant in the main suit. The Respondents/Plaintiffs filed a false partition suit against this petitioner. Due to unavoidable circumstances the petitioner could not able to produce the documents at the time of filing written statement and now only the petitioner got the documents from several places and produce the same. The petitioner prove to her case, she want to produce the petition mentioned documents and same may be marked as exhibits on petitioner's side. It is necessary and important document to prove her case. Therefore, the petitioners prays to allow the petition.

**3) The Crux of the Counter filed by 1<sup>st</sup> Respondent and the same was adopted by Respondents No. 2 & 3:-**

(i) The petition is false. The reasons stated for the delay in filing the documents are neither convincing nor acceptable one. The reasons stated for the delay is very vague and cannot be condoned. The Respondent averred that the petitioner has filed her written statement in the year of 2010 but she has not stated anything about the particulars of the documents and the existence of the documents.

(ii) The Respondent further averred that the petitioner had again filed the additional written statement with incorrect adoption of the written statement for the defendants 26 and 29 to 32. The defendants 26 and 29 to 32 engaged separate advocates and filed the written statement. In the additional written statement also the petitioner has not stated anything about the particulars of documents and the existence of document. Again the petitioner/10<sup>th</sup> defendant filed second additional written statement recently but the petitioner has not stated anything about the particulars of the documents and the existence of documents. The delay in filing the documents is willful and wanton one. The petitioner's husband was examined as DW1 and filed chief proof affidavit on behalf of other defendants 6, 7, 11, 14, 15, 26 and 30 to 32 and he is not a party to the documents and the suit and therefore the documents may not be marked and received the same. Therefore, the respondents prays to dismiss the petition.

4) No oral and documentary evidences on both sides.

**5) Point for consideration:-**

Whether the Petitioners are entitled for the relief as prayed for?

6) Heard Both sides. Records perused. The petitioner is the 10<sup>th</sup> defendant in the above suit. She filed this application seeking leave of the court to receive the documents Under Order 8 Rule 1(A) of CPC. The petitioner in the affidavit filed in support of this petition has alleged that due to unavoidable circumstances she could not produce the documents at the time of filing of written statement and

now only she got the same from several places and wanted to condone the delay in filing the said documents. In the said application except Respondents 1 to 3 all other respondents have no serious objection to allow the same. In the counter statement filed by the Respondents 1 to 3 it has been alleged that the reason given by the petitioner in her affidavit is false and neither convincing nor acceptable one. They have also alleged that the witness who is deposed as DW1 has no capacity to produce the said documents and raised strong objection for marking the same.

7) At the time of enquiry the learned counsel for the petitioner has argued that the petitioner could not procure the documents mentioned in the application at the time of filing written statement and now only she was able to get the same from several places and wanted to condone the delay by allowing this application. In support of his arguments he relied upon a judgment of Hon'ble Supreme Court passed in CA.No.3427 of 2020 (Suganthi (Dead by Lrs.& another Vs Rajkumar rep by his power agent, dated: 13.10.2020) (reportable). On the contrary the learned counsel appearing for the Respondents 1 to 3 has argued that this petition not at all maintainable as the petitioner not only produce documents belonging to her, she also produced documents which is pertaining to the case of the other defendants and he further argued that the petition is vague as there is no specific reason is given for the delay in filing the documents and raised strong objection to mark the some of the documents through DW1. He also relied upon a judgment of Hon'ble High Court of Madras reported in 2020 (2) MWN (Civil) 520 (G. Amsaveni Vs R. Kannan & Another).

8) The above original suit was filed in the year of 2008 and after much long delay trial was commenced only on 11.06.2025 after the said case has been listed as Targeted Case as ordered by Hon'ble Supreme Court of India. The plaintiffs produced two witnesses and the case was posted for defendants side evidence on 05.08.2025. In the meanwhile, an application was filed by this petitioner/defendant no.10 U/Or6 Rule 17 of CPC seeking amendment of the

plaint and the same was dismissed by this court as well as the Hon'ble High Court. Thereafter, the petitioner came forward to examine her husband as DW1 and filed this application along with 12 documents of various dates from 1984 to 09.07.2025. However, the said documents are pertaining to the suit properties stands in the name of parties of the suit and they may be relevant to decide the case. In this juncture, this court is of the opinion that the observation given by the Hon'ble Supreme Court in Para No.9 of the above mentioned judgment will squarely applicable to this case also. The relevant paragraph is extracted hereunder...

Para 9: It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub- rule (3).

9) As far as the issue of admissibility of documents and the capacity of the witness to produce the petition mentioned documents are concerned this court can give finding at the time of judgment by considering the objections raised by the respondents herein. Therefore, this court is not in a position to accept the arguments putforth by the learned counsel appearing for the Respondents 1 to 3 that this petition not at all maintainable and no documents can be marked if the same is not listed either in the written statement or in the additional written statement filed by the petitioner. In the judgment relied upon by the advocate for the Respondents 1 to 3 it has been observed that the documents sought to be

produced in the case is not supported pleading filed by the party concern. Moreover, the said documents are only the medical records not pertaining to the subject matter of the suit. So, the said judgment is not come to the aid of the respondents 1 to 3. Therefore, this court upon considering the nature of suit and the documents produced along with this application and also the judgment of Hon'ble Supreme Court cited supra is inclined to take lenient view while dealing with application of this nature. It is needless to say that the law is well settled that the relevancy, genuinity and admissibility of the documents can be decided at the time of judgment and there is no need to give finding on those issues then and there.

10) In the result, for the reasons discussed above this petition is allowed. No cost.

This order directly dictated to the Steno-typist and typed by him and corrected by me, and Pronounced in the Open Court in the 21<sup>st</sup> day of January, 2026.

Sd/- N. Pannerselvam  
Subordinate Judge,  
Sankari.

**Encl.:**

**Petitioner side Witnesses & Exhibits:-** - Nil-

**Respondents side Witnesses & Exhibits:-** -NIL-

Sd/- N. Pannerselvam  
Subordinate Judge,  
Sankari.