

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, ATTUR

PRESENT : **Tmt. D. JANSIRANI, MBA., LL.M.,**
ADDITIONAL DISTRICT MUNSIF, ATTUR.

Saturday, 21st day of June 2025

I.A. No. 4/2024 in O.S. No. 178/2004

CNR No. TNSA13-000092-2004

1. A.Subramanian (died)
2. Tamilarasi
3. Bharath Gowtham . . . Petitioners/Plaintiffs

/Versus/

1. Selvalakshmi
2. Bagyam
3. Usharani
4. Indrani @ Indira Gandhi
5. Sellamuthi Ammal (Died)
6. Meenakshi Ammal (Died)
7. Parvathi Ammal
8. Palanimuthu
9. Muthukumarasami (Died)
10. Thailammal (Died)
11. Natesan
12. Natarajan
13. Sellam
14. Sivamalai
15. Sellammal
16. Sekar
17. Baskar . . . Respondents/Defendants

This petition came up for final hearing before me on 04.06.2025 in the presence of Thiru.P.Gobi, Advocate for the Petitioners/Plaintiffs and Thiru.T.Subbarayan, Advocate for the Respondents 1 to 3 /Defendants 1 to 3 and Thiru.M.Senthilkumar, Advocate for the R4 and R7, R8, R11 to R17 called absent set exparte upon hearing the arguments on either side, and upon perusing the materials records, and having stood over till this day for consideration, this date, this court delivers the following,

ORDER

The Petitioners/Plaintiffs has filed this petition Sec.151 of CPC praying to dispense with the marking of the negatives as plaintiff side Exhibits by Pw2 which was lost in the court bundle in the above suit.

2. Brief averments made in the petition :

The 2nd Petitioner / 2nd Plaintiff states that deceased husband 1st Plaintiff had filed the above suit, during the pendency of the suit, her husband 1st Plaintiff when alive had filed IA.No.1159/2009 seeking permission from this Hon'ble Court to receive 22 No's additional documents under 0.7.R. 14 of CPC. The said L.A. No. 1159 of 2009 was allowed by this Hon'ble court, in which 8 photo negatives were produced as serial number: 22 (negatives 8 series),

The petitioner states that after allowing the said I.A. No. 1159 of 2009, the same was received by this Hon'ble Court with other documents. During trial the Photos Series was marked as Ex. A 20 to Ex.A 27 and negatives were marked as Ex.A28 (negatives 8 series) before this Hon'ble Court on 04.7.2013.

She further states that during the pendency of the above-said facts, 1st Plaintiff passed away on 24.02.2015 and the 2nd Plaintiff (wife) and 3 Plaintiff (son) had taken steps to get impleaded in the above suit. Thereafter, the 2nd Plaintiff is leading evidence as PW2 in the above suit. The PW2 filed her proof affidavit and marked the available plaintiff side produced documents in the court bundle as Exhibits. She states that however, the negatives of the photos marked by her late husband while he was alive were not found in the court bundle, hence the same could not be marked as one of the exhibits by PW2. She states that it is reliably learnt that after her counsel's thorough verification of the bundle the negatives which were received as additional documents and marked as exhibits by PW1 before this Hon'ble Court are nowhere to be found in the case bundle, which is not a fault of the Plaintiffs herein.

She states that the Hon'ble Court is pleased to mark all 8 negatives of the photos as additional documents are essential to decide this case on merits. The said negatives of the photos were not marked by PW2 only due to the above said reasons which is no fault of the Petitioner. And the same shall not come in the way of substantial justice to provide an opportunity to prove our case before this Hon'ble Court. Under the above mentioned facts and circumstances unless this Hon'ble court dispenses with the marking of the negative as Exhibit by Pw2 which was lost in the court Bundle in the above suit, the plaintiffs would be put to irreparable loss and untold hardships. Hence this petition.

2. **Brief averments made in the counter**

(COUNTER FILED BY THE FIRST RESPONDENT AND ADOPTED BY THE RESPONDENTS 2 AND 3)

The respondent / Defendant objected the petition that this petition is

not maintainable and the averments stated in the affidavit are false and denied.

There is no strong ground and valid reason for seeking the relief to dispense with the marking of the negatives as exhibit by pw2, which was lost in the court bundle in the above suit.

It is meaningless and baseless and not correct to say that the negatives of the photos marked by the deceased husband of the second plaintiff which he was alive, were not found in the court bundle and hence, the same could not be marked as one of the exhibits by PW2. It is not correct to say that after through verification of the bundle by the Counsel of the petitioners, the negatives which were received as additional documents and marked as exhibits by pw1, before this Honourable court are no where to be found in the case bundle, which is not a fault of the plaintiffs.

It is meaningless and baseless and not correct to state that this Honourable court is pleased to mark all 8 negatives of the photos, as additional documents are essential to decide this case, on merits and the said negatives of the photos were not marked by Pw2, only due to the above said reasons, which is no fault of the petitioner and the same shall not come in the way of substantial justice to provide an opportunity to prove the case of the petitioners before this Honourable court.

There is no justification or necessity to dispense with the marking of the negatives as exhibits by Pw2 which was lost in the court bundle. If Marking of the alleged negatives, on the side of the plaintiffs is dispensed with the respondent will be put to unnecessary hardship. The plaintiffs are not entitled to get any order as prayed in this petition. Hence prayed for dismissal of this petition.

3. Now the point for consideration is Whether the petitioners/plaintiffs are entitled to get the relief prayed in the petition?

4. Both side argument heard. The petition, counter and records are carefully perused.

Upon hearing both sides and on perusal of records, it is found that the photographs are already available and marked through 2nd petitioner / 2nd Plaintiff. The court notes that the loss of negatives occurred during the pendency of the suit and not due to any lapse on the part of the petitioner. The absence of negatives does not cause any serious prejudice to either party and is not essential for adjudication of the core issues in dispute.

On considering the year of the case and the important of the documents (photo negatives) seeks to be dispensed with his court come to the conclusion that it is just and necessary to allow the petition .

In the result,

This petition is allowed. No cost.

This order is dictated to the Steno typist directly, typed by her, corrected and pronounced by me in the open court on this the 21st day of June 2025.

**Additional District Munsif
Attur**

List of Documents and Witnesses on Both side:

Nil.

**Additional District Munsif
Attur**

A.D.M. Court, Attur.
DRAFT / FAIR ORDER
I.A. No. 4/2024 in O.S. No. 178/2004
Dated : 21.06.2025