

IN THE COURT OF SUBORDINATE JUDGE, METTUR

Present: Thiru. R.Saravana Babu,B.A., L.L.B.,

Subordinate Judge, Mettur

Wednesday, the 13th day of August 2025

I.A.No: 7 of 2024

in

O.S.No. 31 of 2012

1. Communist party of India (Marxist),

Salem District committee

secretary P.Thangavl

2. Communist party of India (Marxist),

Mettur Town & Kolathur union committee

secretary M.Vetrivel

3. Communist party of India (Marxist),

Salem District committee

Member P.Jeevanandam

4. A. Arunachalam (Died)

5. K.R.Velmurugan (Died)

6. M. Arumugam

... Petitioners /defendants

/Versus/

M. Rajagopalan

... Respondent/ Plaintiff

This petition is coming on 13.08.2025 for final hearing before me in the presence of Thiru. P.Gopinath, advocate appearing for Petitioners /defendants and Thiru.B.Balamurugan advocate appearing for Respondent/ Plaintiff, upon perusing material papers, documents and hearing both side arguments and having stood over for consideration of this court till this day, the court delivers the following:

ORDER

The Petitioner has filed this petition Under Order 8 Rule1A (3) of CPC to order to condone the delay of filing documents detailed below and receive the same.

2. The Brief facts of the petition is as follows:

The petition has been filed by the defendants under order 8 rule 1A (3) of CPC to condone delay of producing the petition mentioned documents. The petitioner further

states that he is the 1st petitioner/ 1st defendant herein and the respondent /plaintiff have filed the suit for the relief of declaration and permanent injunction. The petitioner has stated that he is representing his political party and he has been appointed as a candidate selection committee member for the loksaba election and he has been suffered ill and due to his ill health he was not able to produce the petition mentioned documents at the time of filing written statement. He further adds that the action of the petitioner is neither wanton nor willfull. Hence, the petitioner has prayed to allow the application.

3. The nutshell of the counter statement is as follows:

The respondent/plaintiff has resisted the petition by filing counter statement stating that the petition is false, frivolous, vexatious and not maintainable both under the law and on facts. The respondent further stated that the petition mentioned documents were no way connected with this suit and it is not necessary to decide the dispute between the parties. The respondent further alleged that the document shall be produced by the author or attestor or custodian of the document. The respondent further stated that the reasons set out the petition is not legally maintainble. The petitioners did not take any steps to produce the document for period of 12 years and there is no valid reasons set out the petition for the huge delay. Hence prayed for dismissal of the petition with cost.

4. The Point for determination is whether the petition filed by the petitioner Under Order 8 Rule 1A(3) of CPC is deserves to be allowed or not?

5. Point:

- (i) This court has considered the rival submissions made by the both counsels.
- (ii) The suit has been filed by the plaintiff for the relief of declaration and permanent injunction. This petition has been filed by the petitioner/1st defendant to condone the delay in producing the petition mentioned documents. It has been strenuously opposed by the respondent/plaintiff stating that the reasons for the delay in producing the documents have not been properly explained by the petitioner/1st defendant. The respondent/ the plaintiff has contended that the documents filed by the petitioners/the 1st defendant having no connection with the present suit and it is not sustainable in the eye of law.

(iii) On perusal of the records, it is found that the suit has been filed in the year of 2012 for the relief of declaration and permanent injunction. The petitioner has filed an application under order 8 rule 1A(3) of CPC to condone the delay in producing the documents. The reasons set out in the petition it that he has been nominated for the selection of the candidate for his political party and he was suffered by the ill health and due to that he was not able to produce the documents at the time of filing written statement. It is clear that mere permitting the petitioner to produce the petition mentioned documents would not affect the rights of the respondent /plaintiff in any way. It is further clear that mere admissibility of the documents would not amount to the proof of the documents. Considering the nature of the case and circumstances, this court is inclined to condone the delay in producing the petition mentioned documents subject to proof and relevancy and also this court gives liberty to the respondent/plaintiff to make his objection at the time of marking of the petition mentioned documents.

6. In the result, for the reasons stated above, this petition is allowed. No cost.

Dictated by me to Steno-Typist and typed by her directly in computer, and corrected and pronounced by me in the open court, this the 13th day of August 2025.

**Sd/-Saravana Babu
Subordinate Judge,
Mettur**

**Petitioners /defendants side witness and documents: Nil.
Respondent/ Plaintiff side witness and documents: Nil.**

**Sd/-Saravana Babu
Subordinate Judge,
Mettur**