

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,  
ADDITIONAL DISTRICT COURT, SIVAGANGAI.**

**Present: Tmt.R.Sathiathara,M.A.,M.L.,  
Additional District Judge,  
Additional District Court,  
Sivagangai.**

**Dated Wednesday, the 09<sup>th</sup> day of August 2023.**

**2054 Thiruvalluvarandu Subakrith on Wednesday 24<sup>th</sup> day of Aadi Thingal  
I.A.No.2/2023**

**in**

**O.S.No.40/2015**

S.P.Nagendran

... Petitioner / Plaintiff

**-//Vs//-**

S.K.Govindaraj

... Respondent / Defendants

This Petition is coming on 03.08.2023 before me in the presence of Thiru.L.Saravanan, counsel for the petitioner and Thiru.K.Azhagappan, counsel for the respondent and on perusal of records and documents and on considering the evidence, this court delivered the following:

**ORDER**

Petition filed under Order 7 Rule 14(3) and Section 151 of C.P.C to condone the delay in filing the certified copy of sale deeds dated 29.01.1973 and 30.12.1975.

**The averments in the petition in brief is as follows:**

2. The petitioner is plaintiff in the suit filed for declaration and recovery of possession posted for plaintiff side evidence. The sale deed of plaintiffs predecessor's father Sundaram Chettiyar could not be produced at the time of filing of suit. Hence delay caused to be condoned failing which this petitioner will be put to heavy loss

and hardship. On the other hand the respondent will be not prejudiced. Hence petition filed.

**The averments in the counter filed by respondent in brief is as follows:**

3. The respondent is defendant in the suit. The petition filed is not maintainable in law. The documents mentioned are not related to suit property. The petitioner not mentioned about sale deeds dated 29.01.1973 and 30.12.1975 in his proof affidavit and pleadings and therefore they are not acceptable documents. The petitioner stated that suit properties belong to vendors by Will. But now without any explanation stated as purchased by Sundaram Chettiyar by virtue of sale deeds. The reason for non filing original documents not stated. Further the date when he received certified copy after suit is not mentioned. In sale deed dated 26.11.2009 it is noted as it belong to Roja Ammal mother of 1 and 2 parties. In contrary now claim as belong to predecessor's father Sundaram Chettiyar. There is no pleadings to that effect. This petition filed after 8 years of pendency of suit. Those documents filed belatedly is unnecessary and therefore petition to be dismissed with cost.

**4. Points to be decided:**

1. Whether petition to be allowed to condone the delay in filing the certified copy of sale deeds dated 29.01.1973 and 30.12.1975 as prayed for?

On the side of the petitioner and respondent no oral and documentary evidence adduced.

**Points for consideration:**

5. The petitioner is plaintiff in the suit filed for declaration and recovery of possession posted for plaintiff side evidence. The petitioner states that the sale deed of plaintiffs predecessor's father Sundaram Chettiyar dated 29.01.1973 and 30.12.1975 could not be produced at the time of filing of suit and the delay caused in filing the same to be condoned and documents to be received. The contention of the respondent is that the petitioner not mentioned those sale deeds in pleadings and proof affidavit could not be received and the petitioner states as in sale deed dated 26.11.2009 that it belong to Roja Ammal mother of 1 and 2 parties. But in contrary claim now as belong to predecessors father Sundaram Chettiyar without any pleadings is not acceptable. It is settled law that the petitioner/plaintiff have to stand on his own legs to prove his case. Admittedly suit filed for declaration and recovery of possession. The documents sought to be filed are sale deeds dated 29.01.1973 and 30.12.1975 much earlier executed. The issue whether those sale deeds relate to suit property and the petitioner/plaintiff entitled to claim title through the predecessors of sale deeds dated 29.01.1973 and 30.12.1975 could be ascertained only after a full fledged trial. Hence to have proper and complete adjudication of matter in dispute in respect of suit property and to decide title, the delay caused in filing the sale deeds dated 29.01.1973 and 30.12.1975 could be condoned and those documents could be received subject to proof and relevancy. Accordingly this point is answered.

In the result, petition allowed and sale deeds 29.01.1973 and 30.12.1975 received subject to proof and relevancy. No cost.

Dictated by me to the typist and typed and computerized by him, in my presence and corrected and pronounced by me in open court, this the 09<sup>th</sup> day of August 2023.

**Additional District Judge,  
Sivagangai.**

**List of witness and documents on the side of the petitioner and respondent: Nil**

**Additional District Judge,  
Sivagangai.**