

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI**PRESENT : Tmt.R.PREMI, B.A., L.L.B., (Hons).,**

District Munsif, Devakottai

Wednesday, the 18th day of March, 2026**IA.No.15/2026****in****OS.No.48/2016**

KR.Murugesan

...Petitioner

-Vs-

1. K.Shanmugam
2. K.Palaniyappan
3. K.Muthaiah
4. Narayanan
5. Lakshmi

...Respondents

This petition is coming before me for final disposal in the presence of Thiru.B.Asaithambi learned advocate for the Petitioner, Thiru.N.Ramji learned advocate for the Respondents. Having heard of both side enquiry and upon perusing the documents, this court do hereby pronounce the following...

ORDER**The petition is filed under Order XVIII and Rule 17 and 151 of CPC****1. The averments in the petition are as follows:**

The Petitioner is the 1st defendant in the main suit. The suit has been filed against the defendants and is pending at the stage of trial. The petitioner states that his side witness has been examined already and documents were marked and the stage has come up for further DWs. Even before the suit was filed with

respect to Ward 3, Block 4, TS.No.28, the 3rd defendant has on 09/07/2009 executed a registered gift deed with respect to the suit C scheduled property to an extent of 2426 square feet in favor of his son Muthuselvan. The said gift deed has been produced along with this petition. The said Muthuselvan has executed a registered gift deed dated 18/08/2011 with respect to 1627 square feet of the C scheduled property. In favour of one Mr.Ravichandran son Rathinampillai. The sale deed is also produced along with this petition. The said Ravichandran has executed a registered sale deed with respect to the said 1627 square feet of the C scheduled property in favor of one Mrs.Kalaiselvi wife of Subbaiah by a registered Sale Deed dated 19/09/2013. The said sale deed is also produced along with this petition. The said Kalaiselvi has been in possession and enjoyment of the suit property by building a house. The GPRS photo of the house is also produced along with this petition. The petitioner states that it becomes important to mark these documents as his side evidence and hence it becomes important to recall his witness. Hence, he has filed this petition to recall the DW1 and prays for the petition to be allowed.

2. Averments in the counter are as follows:

The respondent denies the contentions of the petitioner and states that the suit has been pending at the stage of further DWs since 22.02.2024. The the petitioner has not mentioned about these documents in his written statement and has filed the documents now which is not acceptable. The petitioner has filed this petition only to fill up the lacunas left out by the DW1 in his cross examination. Hence, the petitioner has filed the petitions to receive additional documents and recall the defendant side witness. Hence, the petitions should be dismissed. He also states that the petitioner has not stated any reason as to why he did not mention about these documents in his written statement. He also states that on

perusal of the encumbrance certificate produced by the defendant the above said documents sought to be produced by the petitioner are not reflected and also since the petitioner did not mention as to how he came to know of these documents the petition should be dismissed. He also states that the petition has been filed only with an intent to drag on the proceedings of the case. Hence, he prays for the petition to be dismissed.

3. Now the question to be decided is whether the petition has to be allowed or not?

Petition and counter perused. Enquiry heard on both sides. The petition has been filed to recall the defendant side witnesses DW1 to facilitate the defendant/petitioner to mark the additional documents that are produced by him now. The petitioner has stated the reason that those documents are very much important for him to prove his case and hence, he prays for the petition to be allowed and to recall the DW1 and mark the said exhibits. On the other hand, the respondent has denied the contentions stating that the petitioner/defendant did not mention about these documents in his written statement and has not stated proper reason for producing his documents at a later stage. Hence, he prays for the petition to be dismissed. Both side averments perused. On perusal of records, it becomes clear that the suit is pending at the stage of further Dws when the petitioner has filed this petition along with the petition to receive additional documents to be received as his side exhibits. It is true that every person must be given a reasonable opportunity to be heard to put forth his case before the court as per the principle of natural justice, “audi alterm partem”. Hence, the court is inclined to allow this petition to give the petitioner/defendant one more opportunity to put forth his evidence before the court. Considering the fact that the suit is pending at the stage of further DWs, this would not cause much delay

in proceeding with the suit further. On perusal of records, it also becomes clear that petition to receive additional documents by this petitioner was also allowed by the Order of this court dated 18-03-2026. Hence, in order to avoid any further delay and to give a reasonable opportunity to the defendant the court hereby allows this petition. In the end, the petition is allowed. No order as to cost.

4. Decision

In the end, the petition is allowed. No order as to cost.

This Order was dictated by me, typed by the steno-typist, corrected by me and pronounced by me in the open court on 18th day of March 2026.

**District Munsif,
Devakottai.**

Annexures:

List of witnesses on the side of the Petitioner-Nil-

List of documents on the side of the Petitioner-Nil-

List of witnesses on the side of the Respondents-Nil-

List of documents on the side of the Respondents-Nil-

**District Munsif,
Devakottai.**