

IN THE COURT OF DISTRICT MUNSIF, BODINAYAKANUR.

PRESENT: Thiru.A.Mohamed Hashim, B.A., B.L.,
District Munsif,
Bodinayakanur.

Thursday, the 09th day of July 2026

IA.No.16/2025

in

OS No.61/2020

1. Ayyammal (Died)

...1st Petitioner / Plaintiff

2. Manoharan

3. Aberna Kumari

4. Brasanna Devi

5. Muthu Vignesh

.... 2 to 5 Petitioners / 2 to 5 Plaintiff

-Vs-

1. P.Seeniammal

2. P.Baskaran

3. P.Senthilkumar@Kumaran

.... 1to 3 Respondents / 1 to 3 Defendants

This Petition is coming up before this Court on 03.07.2026, in the presence of Thiru. D.Karthick Raja Learned Advocate for the Petitioners/Plaintiffs, and presence of Thiru. Pon.Chinnasamy Learned Advocate for the Respondents/Defendants. Upon perusing the case records and having stood over for consideration till this day, this Court hereby delivered

the following...

ORDER

1. The plaintiffs in the main suit have filed this petition under Order 11 Rule 14 & 16 of CPC directing the defendants to produce the discharge receipt dated 07-05-1992 bearing Doc No: 1007/1992.

2. For ease of understanding, the parties are addressed to as per their litigative status in the main suit.

3. **The case of the petitioners/ plaintiffs in brief:-**i) The suit property was mortgaged in favour of one Dharmar under a registered mortgage deed dated 21.03.1986. Thereafter, Dharmar executed a registered made-over deed dated 24.02.1989 in favour of the 1st plaintiff assigning all his rights under the mortgage. Without redeeming the mortgage in favour of the 1st plaintiff, the defendants created a forged discharge receipt dated 07.05.1992 as if the mortgage had been discharged. Hence, the main suit came to be filed.

ii) The deceased 1st plaintiff has never executed the alleged discharge receipt dated 07-05-1992. The alleged discharge receipt is vital document for deciding the main issue and the defendants have cleverly not filed the same along with the written statement. If the said alleged discharge receipt is

produced before this Court, it will come to light that the alleged discharge receipt is not executed by the 1st plaintiff.

4. The case of the respondents/ defendants in brief:-

i) All the averments stated in the affidavit filed in support of the petition are false. The suit property originally belonged to the 2nd plaintiff, the 1st defendant, the late Prabakaran and the late Ayyappan by virtue of a registered partition deed dated 02.09.1975. The 2nd plaintiff and the late Prabakaran mortgaged the suit property in favour of Dharmar under a registered mortgage deed dated 21.03.1986 for a sum of Rs.20,500/-. Thereafter, the 1st plaintiff paid the mortgage amount to Dharmar and obtained a registered made-over deed dated 24.02.1989 in her favour. Subsequently, the defendants, the 2nd plaintiff and the late Prabakaran repaid the entire mortgage amount together with interest to the 1st plaintiff. Upon receipt of the mortgage amount, the 1st plaintiff executed a discharge receipt on 30-04-1992 and handed over the same to the 2nd plaintiff. The original discharge receipt is with the 2nd plaintiff.

ii) Thereafter, the defendants 1 to 3, the 2nd plaintiff and the late Prabakaran mortgaged the suit property in favour of Chokkiah and Chandra under a registered mortgage deed dated 15.02.1999. The 1st plaintiff was fully aware of the said transaction. Subsequently, the defendants 1 and 3 and the

late Prabakaran executed a registered relinquishment deed dated 01-12-2005 in favour of the 2nd defendant in respect of their 3/5 share in the suit property, whereby the 2nd defendant became entitled to an aggregate 4/5 share in the suit property. The 2nd defendant thereafter discharged the mortgage in favour of Chokkiah and Chandra and redeemed the property.

iii) The plaintiffs have no manner of right to challenge the registered partition deed dated 01.12.2005. The plaintiffs have also failed to implead the legal heirs of the late Prabakaran, who are necessary parties to the suit. The suit itself is barred by limitation under Article 64 of the Limitation Act.

5. The learned counsel for the plaintiffs reiterated all the averments set out in the affidavit filed in support of the petition and would submit that the 1st plaintiff has not executed the discharge deed dated 07-05-1992 and the said discharge deed is with the defendants and the defendants shall be directed to produce the original discharge deed for purpose of referring it to signature comparison.

6. *Per contra*, the learned counsel appearing for the defendants 1 to 3 reiterated all the averments set out in the counter and would submit that the main suit itself is vexatious and hopelessly barred by limitation. He would

further submit that the original discharge receipt is with the 2nd plaintiff and not with the defednants and therefore the present petition must be dismissed.

7. This Court carefully considered the rival submissions and perused the materials available on record. The point for determination in this petition is whether this petition is liable to be allowed or not?.

8. The present petition has been filed under Order XI Rules 14 and 16 of the Code of Civil Procedure seeking a direction to the defendants to produce the original registered mortgage discharge receipt dated 07.05.1992. The specific case of the plaintiffs is that the 1st plaintiff had never executed the said discharge receipt and that the original document is in the custody of the defendants and is required to be referred for signature comparison.

9. The defendants, on the other hand, have categorically taken a stand that the original discharge receipt is not in their possession and that the same was handed over to the 2nd plaintiff after discharge of the mortgage. Thus, there is a specific dispute between the parties as to the custody of the original discharge receipt.

10. At this stage, this Court cannot undertake an enquiry as to who is in possession of the original discharge receipt. The power under Order XI Rules 14 and 16 of the Code of Civil Procedure can be exercised only when the

Court is satisfied that the document sought to be produced is in the possession or power of the party against whom the direction is sought. In the absence of such satisfaction, no direction can be issued compelling the defendants to produce a document which they specifically deny to be in their possession or power.

11. In view of the foregoing discussion, this Court is of the considered view that the present petition is devoid of merits and is liable to be dismissed.

In the result, this petition is dismissed. No Costs.

Dictated to the Steno-typist, transcribed by her, corrected, and pronounced by me in open Court, this the 09th day of July 2026.

District Munsif,
Bodinayakanur.

Petitioners' Side Witness and Documents :-

- Nil -

Respondents' side Witnesses and Documents : -

- Nil -

District Munsif,
Bodinayakanur.