

IN THE COURT OF THE DISTRICT MUNSIF, PALLADAM

**Present:- Thiru. V. Kalidasan, B.Com., L.L.M.,
District Munsif,Palladam.**

Friday the 30th day of January 2026

IA No.13/2025

in

OS No.72/2014

1. Subbulakshmi
2. Balamani
3. Swathika
4. Sugavarnan

...Petitioners/defendants 23 to 26

/Vs/

1. A. Subbaraya Gounder (died)
2. Meenakshi
3. Anandhi
4. Jegajothimani

... Respondents/Plaintiffs

This Petition is coming on 27.01.2026 for final hearing before me in the presence of Thiru.D.Sunderraj, B.A., B.L., Advocate for the Petitioners and Thiru.C.P.Subramaniam, B.L., Advocate for the Respondents. Upon perusing the Petition, affidavit, counter statement and other connected materials on record and hearing the arguments of both sides and having stood over till this day for consideration, this court made the following...

ORDER

i) The petitioner filed this petition in IA No.13/2025 Under order XVIII Rule 17 and section 151 of CPC that to recall the petitioner/26th defendant DW3 in order to adduce additional oral, documentary evidence.

1. Brief averments of the petitioners:-

In above suit, the 2nd defendant was examined as DW1. The 5th defendant had deposed his evidence as DW2, but after deposing of his chief examination, exhibits marked, he was died and so his cross examination was not conducted. Therefore, after impleaded the petitioners, the 4th petitioner was examined herself as DW3 and one K.Chinnasamy was examined as DW4. Then the suit was posted today for her side further evidence. The above said DW4 K.Chinnasamy is a real owner of properties in S.F.No.821/5, 822/2 of Madhappur Village. Instead of mentioning S.F.No. 821/2, 821/3 suit properties in 07.05.1965 dated partition under Arunachal Gounder's "A" Schedule share, it was mistakenly mentioned the properties of S.F.No.821/5, 822/2. But actually, the said Arunachala Gounder was no way connected and not having any right over those properties in S.F.No.821/5, 822/2. To establish the true facts, we have examined DW4 K.Chinnasamy in their side and they also produced several parent/title documents, continuous registered documents of that S.F.No. 821/5, 822/2 of Madhappur Village. Regarding those S.F.No.821/5, 822/2, they want to produce some more additional documents dated 01.10.1993, 26.10.1966 dated sale deeds, one mortgage deed in the year of 1921, some revenue records. Hence, this petition.

2. Brief averments of the counter filed by the 2nd Respondent and adopts the respondents 3 and 4:-

The suit was posted for further evidence on 06.01.2026 behalf of Defendants 23 to 26. However, the Petitioners/Defendants 23 to 26 have sought and obtained multiple consecutive adjournments for the purpose of adducing further defense evidence. In the absence of proper pleadings seeking permission to adduce further evidence, the Petitioner has no legal right to introduce additional evidence into the suit. Therefore, the present recall petition is misconceived. Even otherwise, the Petitioner has not filed any additional documents with respect to suit property along with the present petition. Hence, the petition is devoid of merit and is not maintainable at this advanced stage of the proceedings. The present application is, nothing but an attempt to protract the proceedings and is liable to be dismissed. The petition is an abuse of the process of court, and the only intention of the petitioner is to drag on the proceedings. Hence, prayed to dismiss this petition.

3. Points for consideration:

Whether this petition will be allowed or not ?

4. Heard both sides. No oral or documentary evidence is let in by both sides.

5. Answer to the point :

Materials on records perused. It is seen from the records the suit in O.S. No.72/2014 has been filed for Partition. This petition was filed by the Petitioners/defendants 23 to 26 Under order XVIII Rule 17 and section 151 of CPC that to recall the DW3 in order to adduce additional oral, documentary evidence on the side of the Petitioners/defendants 23 to 26.

6) The learned counsel for the petitioners submitted that to establish the real facts and to produce certain important documents like sale deeds dated 01.10.1993, 26.10.1996 and mortgage deed of the year 1921 needs to be produced in this case on the side of petitioners. Therefore, in order to produce the same the recall of D.W1 is necessary for adduce further oral and documentary evidence on the side of petitioner.

7) The learned counsel for the respondents submitted that the petitioners have not filed the documents along with this petition, which sought to be marked. In order to protract and prolong the proceedings, the petitioners filed this petition. Therefore, they are not entitled recall the D.W1.

8) On considering both side submissions and on perusing the entire case records the only reason stated by the petitioners to recall the D.W1 for the purpose of further chief examination is that the important documents are need to be marked with respect to the confirmation of the correct survey numbers. The petitioners have stated the reason that they were struggled to search the previous records. Though the petitioners have not disclosed the proper explanation, considering the long pendency and nature of the suit and to avoid further delay, and multiplicity of proceedings, in order to provide one fair opportunity to the petitioners, in the interest of justice, this court is inclined to allow this petition. However, the delay caused by the petitioner has to be compensated to the other side by way of cost.

In the result, this petition is allowed with the condition to pay the cost of Rs.2,000/- to the respondent/plaintiffs

Dictated to Steno-Typist, and typed directly in computer and corrected & pronounced by me in open Court, on this 30th day of January 2026.

**District Munsif,
Palladam.**

Appendix:-

Petitioner's side Witness and Documents:- Nil

Respondent's side Witness and Documents:- Nil

**District Munsif,
Palladam.**