



IN THE COURT OF SUBORDINATE JUDGE OF PALLADAM

PRESENT: Thiru.K. Yuvaraj, B.A.,B.L.,
Subordinate Judge, Palladam

Thursday of 9th Day of July, 2026

IA No.3/2025

in

AS No.4/2022

(TNTI210003302022)

Deivathal

... Petitioner/ Appellant

/Vs/

1. Eswari (Died)
2. Valliammal
3. Balasubramaniam
4. Kamalavathi
5. Dhanalakshmi
6. Poovathal
7. Shanmugam (Died)
8. Rajeshwari
9. Shanmugam
10. Ganapathiappa Gounder (Died)
11. Sivakami
12. Kalamani
13. Shanthamani
14. Kathiresan

... Respondents / Respondents

This petition is coming on 09.07.2026 for final hearing before me in

the presence of Tmt.R.Krishnaveni,,B.A.,B.L., Advocate for the petitioners and Thiru.Muruganandham,B.L., Advocate for the 3rd Respondent and 1st, 7th and 10th Respondent Died. The Respondents 2, 4, 5, 6, 8, 9, 11, 12, 13 and 14 are called absent and set exparte. upon hearing both side argument, and all connected material records and having stood over till this day, for consideration, this court delivered the following..

ORDER

This Interim application was filed by the Petitioner / Appellant to receive additional documents at the stage of hearing arguments in first Appeal under Order XLI Rule 27 of CPC.

1. The learned Counsel for the Petitioner/Appellant argued that 9th Respondent had filed a suit for partition and Separate Possession in OS.119/2013 on the file of learned Principle Sub Court, Tiruppur against Respondents 3, 6 and 7 with respect to the suit property. Subsequently the said suit was transferred to this court and renumbered as OS.No.350/2018, in that Respondents 3 and 6 who are arrayed as Defendants 1 and 3 and filed their written statement. However they proceeded to compromise the matter in contradiction to the averments made in their written Statement while willfully suppressing the pendency of another suit in OS.No.104/2014 on the file of Learned District Munsif, Palladam which has been instituted by this Petitioner/ Appellant over the very same suit property.

2. Consequentially OS.No.350/2018 was disposed by this court on 20.11.2018 on the basis of compromise entered between them. Even though there was a specific issue was framed in OS.No.350/2018 with regard to the non jointer of necessary parties (who is none other than this Petitioner/Appellant) it was decided on compromise. While so in

OS.No.104/2016 the 8th Respondent, who is the wife of the 9th Respondent had tendered her deposition on 06.12.2018 subsequent to the passing of compromise Decree and Judgment dated 20.11.2018 in OS.No.350/2018. However she failed to disclose or even make a reference to the said compromise Decree and Judgment despite fully aware of the same. Hence in order to cull out all the real facts before this court, the subject documents such as Complaint in OS.No.350/2018, Written Statement in OS.No.350/2018, Written Statement of Balasubramaniam in OS.No.350/2018, Order in Tr.O.P.No.131/2016, Compromise petition and plan filed in OS.No.350/2018, Judgment of this court in OS.No.350/2018 dated 20.11.2018 are essential at this stage.

3. Per contra, The Learned Counsel for the Respondents, the 2nd Defendant, 11th Defendant, 12th Defendant to 14th Defendant had made an endorsement that the subject documents may be received subject to the proof and relevancy.

II. Now point for consideration is whether this petition is allowed?

1. Heard Both sides. Perused entire records. It is well settled law that a receive document application at the stage of hearing of first appeal under order XLI Rule 27 should not allowed on mechanical manner. Before allowing such application the court needs to scrutinize whether the subject documents are mandatory and it passes the necessary requirement scheduled under Order XLI Rule 27 of CPC. On careful reading of Order XLI Rule 27(b) of CPC it clearly enumerates that the Appellate court requires any document to be produced or any witness to examine to enable it to pronounce Judgment or for any other substantial cause the Appellate court may allow such evidence or document to be produced or witness to be examined.

2. Hence on careful reading of such provision, it is clear that if the subject document is essential to decide the case on merits, the Appellate court can receive any document or witness under Order XLI Rule 27 of CPC. Since the contesting Defendants had not raised any serious objection over the receiving of documents and on careful perusal of Affidavit affirmed by the Petitioner / Appellant it is clear that the subject documents are essential to decide the appeal on merits. Hence to the considered opinion of this court this IA is allowed by directing the Petitioner/Appellant to adduce evidence along with the subject documents before this court to decide the appeal on merits.

With this observation, This Application is Allowed. No Costs.

Dictated to the stenographer, transcribed and typed out by her, corrected and pronounced by me in open court this 9th July 2026.

Subordinate Judge,
Palladam.

Fair / Final Order

IA No.3/2025 in AS 4/2022

Date: 09.07.2026