

IN THE COURT OF SUBORDINATE JUDGE : LALGUDI

Present : Tmt.R.Mohana, B.L.,

Subordinate Judge, Lalgudi

Dated Friday, the 01st day August 2025

I.A No.11/ 2025 in OS.No.724/2018

(CNR.No.TNTP1800190182018)

D. Naresh Kumar

.....Petitioner/2nd defendant

- Vs -

1. Parvathi

2. G.Rajendran

3. Nallaponnu

4. Chandra

...Respondents/plaintiffs

5. Panaiyadiyan

....Respondent/1st defendant

This petition came up before this court for final hearing on 29.07.2025 in the presence of the Learned Counsels Thiru.L.Rengarajan- advocate for the petitioner and of Thiru.K.Jayaraman- advocate for the respondents No. 1 to 4 and 5th respondent remained exparte and heard both side and upon perusing the case records and having stood over for consideration before this court till this day, today this court hereby delivers the following. . .

ORDER

The Petitioner/2nd defendant has preferred this Petition Under Order 18 Rule 17 & r/w. section 151 CPC, pleaded to recall DW1 for further chief examination for marking the parent documents of Ex.B1 & Ex.B2.

2. Gist of petition averments -

The petitioner herein and power agent of 2nd defendant in the suit. The petitioner know the facts of the case. The plaintiffs have filed the above said suit for the relief of partition and for other reliefs. The 2nd defendant is contesting the suit as tooth and nail.

For more details, averments made in the written statement may kindly be read as part and parcel of this affidavit. The petitioner was examined as DW1 and through the petitioner, Ex.B1 & Ex.B2 were marked. And thereafter, the petitioner came to know that, due inadvertence, the parent documents of Ex.B1 & Ex.B2 are necessary and they were not marked. Suddenly, the petitioner applied for the certified copies. The original documents are not with the petitioner. In order to prove his case, the parent documents of Ex.B1 & Ex.B2 are vital and to be received and to be marked on his side. Therefore in order to mark the above said documents. The petitioner have to be recalled for chief examination to mark those documents on the petitioner side. Moreover the petitioner having good case on merits. Under those circumstances, the petitioner has to be recalled for chief examination to file and mark the above said documents on his side and the chief examination was closed on 03.04.2025. Else the petitioner will suffer a huge loss and hardship. Hence, this petition.

3. Gist of Counter -

Except those that are specifically admitted herein are true, but all other allegations are denied as false and the petitioner are put to strict proof of the same. There cannot be any more frivolous petition than the present one. The above said interlocutory application is not at all maintainable either in law or on facts. The present application has been filed by the petitioner herein for the relief of recall DW1. But the listed out documents proposed by the petitioner/ 2nd defendant have no relevance to the present suit. If it is so necessary they might have been produced the same along with the written statement because the documents submitted are not newer to the petitioner/ 2nd defendant and they are well available with them. This application is nothing out dragging on the proceedings. This suit is in the year of 2009 almost 14 years over since the institution of this suit. So to say on the sole ground the present interlocutory application has to be dismissed on inlimine. This respondent reserves his right to file

additional counter as and when such circumstances are arises. It is therefore prayed that this Court may be pleased to dismiss the above said interlocutory application with exemplary cost.

4. There is no evidence and documents let in by both sides.

5. Point for consideration - Whether this petition is allowed or not?

6. The Learned counsel for the petitioner / 2nd defendant has argued that he was examined as DW1 through him exhibit B1 B2 were marked but it came to know that due inadvertence, the parental document of ExB1 and ExB2 are necessary and it was not marked so the petitioner has applied the certified copies since the original documents are not with this Petitioner and in order to mark the above said documents, the petitioner may be permitted to recall for chief examination and to mark those documents or otherwise the petitioner will cause hardship and hence this Petition may be allowed.

7. The Learned counsel for the respondent/ plaintiff argued that the proposed listed out document filed by this petitioner have no relevance to the present suit. If it is so necessary, they might have been produced the same along with the written statement because the document submitted are not newer to the petitioner and they are well available with them and it is further argued that the suit is in the year of 2009 almost 14 years over from the date of institution of this suit, hence this petition is only dragging on the proceedings and for that reason itself this petition may be deserved to be dismissed in limine.

8. Both side heard case records perused. This is suit for partition claiming right over the property by seeking 1/2 share in the suit property. The defendants have vehemently denied the rights of the plaintiff stating that the subject matter of the suit have been combined and converted as house sites by forming layout under the name and style of Sri Raghavendra Highway Park after getting no objection certificate from concerned Panchayat president.

9. It is further pleaded by the respondent in the sixth para of written statement about the documents appended along with this petition. Accordingly the documents filed along with this petition is related to the subject matter of the suit property and hence this court is of the view that this document can be received subject to the proof and relevancy of the claim made by the parties.

10. The suit is in the year of 2009 and this petition is filed in the stage of arguments after the very long period of closing the both side evidence as rightly pointed out by the respondent herein. Considering the above said facts this Court is of the view that this petition can be allowed only on the condition that this petitioner has to pay a sum of Rs.1000/- to be paid to the respondent herein on or before 06.08.2025 if any deviation this petition will stand dismissed. call on 07.8.2025.

In the result, this Petition is allowed only on condition that the Petitioner has to pay a sum of Rs.1000/- to be paid to the respondents/Plaintiffs on or before 06.08.2025 if any deviation this Petition will stand dismissed. Call on 07.08.2025.

Dictated to steno-typist, typed by her directly in computer, corrected and pronounced by me in open court on this the **01st** day of **August 2025**.

Sd./-Tmt.R.Mohana, B.L.,
SUB JUDGE
LALGUDI.

List of Documents

Petitioner side witness and document - Nil

Respondents side witness and document - Nil

Sd./-Tmt.R.Mohana, B.L.,
SUB JUDGE
LALGUDI.

/True Copy/

Sub Court, Lalgudi
IA.No.11/2025 in OS.No.724/2018
Fair/ Draft Orders
Dated – 01.08.2025