

**III ADDITIONAL DISTRICT AND SESSIONS COURT
TIRUVALLUR AT POONAMALLEE**

Present : Thiru.C.VIJAYAKUMAR, B.A., B.L.,
III Additional District and Sessions Judge

Wednesday, the 8th day of April 2026

I.A.No.11/2026 in O.S.No.473/2019

1) Ravichandran,
2) Babu,
both are represented by their
General Power Agent S. Jambu,
No.16, Anna Street, Kallikuppam,
Ambattur, Chennai – 600 053.

..Petitioners / Defendants

//Vs//

R. Sreedhar, S/o. Ramachandran,
No.8/23, Reddy Street, Melpattambakkam,
Cuddalore – 607 104.

..Respondent / Plaintiff

This petition came up before this Court for final hearing on 13.03.2026 in the presence of M/s. S. Nizar Ahamed, D. Saravanan learned counsel for the Petitioners / Defendants, M/s. R. Gnanasekaran, G. Suresh learned counsels for the Respondent / Plaintiff and upon hearing both side arguments and having stood over for consideration till this day, this court passed the following:

ORDER

The Defendants in the suit has filed this petition under rule 74 of CRP r/w section 151 of CPC and prayed to issue a court certificate directing the Registrar, City Civil court to grant the copies of following documents:

(1) Preliminary Decree copy in O.S.No.854/1960; (2) Judgment Copy in O.S.No.854/1960; (3) Fair Order in final decree proceedings in O.S.No.854/1960; (4) decreetal order in final decree proceedings in O.S.No.854/1960; (5) Plaint copy in O.S.No.854/1960.

2) The averments made in the affidavit filed by the Petitioner / Defendant in support of the petition are briefly as follows:-

The plaintiff filed a suit for declaration and recovery of possession, alleging that the property was originally owned by Rajabather Mudaliar. In 1960, his son, A.R. Vaithyanathan, sued for partition and accounts, resulting in a final decree on August 13, 1962, which granted him and his sisters their respective shares. This decree was confirmed by the Madras High Court in 1969. Subsequently, on May 17, 1984, Vaithyanathan and his family sold 13.37 cents of the partitioned land in Survey No. 163/2 to Bafna Mahaveer Chand, who eventually sold the suit property to the current plaintiff on May 11, 2006. However, the defense maintained that the entire 97-cent plot in Survey No. 163/2 originally belonged to Rajagopal Mudaliyar, who had settled the land upon his son, A.R. Anantha Krishnan, via a registered settlement deed on

November 24, 1959 prior to the 1960 partition suit. Following this settlement, Anantha Krishnan enjoyed peaceful possession until October 24, 1986, when he sold 7.5 cents to the first defendant and 7 cents to the second defendant. The defendants asserted they held joint, unhindered possession since their purchase. They further contended that the plaintiff's suit register extract for the 1960 case was unclear regarding the final decree and failed to show that the 1959 settlement deed was ever cancelled. Hence, the Petitioner filed this petition and prayed to issue a court certificate directing the Registrar, City Civil court to grant the copies of the aforesaid documents.

3) The averments made in the Counter statement filed by the Respondent / Plaintiff are briefly as follows:-

The Respondent/Plaintiff submitted that the suit was originally filed against the defendants only, but during the ex-parte argument stage, an individual named Jambu filed an application to implead himself as a party, claiming to be the General Power of Attorney (GPA) for A. Ravichandran and G. Babu. The plaintiff submitted that Jambu lacked standing because the original power deed was never marked, and while Jambu claimed the power was still in force, the principals themselves had not filed supporting affidavits. Furthermore, discrepancies existed between the boundaries in the GPA and the principals' sale deeds, and the specific survey number and extent of the suit property were not mentioned in the power deeds provided. The plaintiff further

contended that the requested certified copies of the preliminary and final decrees from a 1960 suit (O.S.No. 854) had already been marked as exhibits by the defendants, making the current request for a court certificate unnecessary. It was noted that since these details were available in the "Suit Register Extract," the petition filed under Rule 74 was not maintainable. Additionally, the plaintiff alleged that Jambu had been illegally occupying the property and collecting rents totaling Rs.10,20,000/- since 2016 an admission reportedly made during cross-examination and requested the court to direct him to deposit that sum. Therefore, the petition is liable to be dismissed.

4) On the side of the Petitioner/ Plaintiff and Respondents/ Defendants, no witnesses were examined and no documents were marked.

5) The point arising for consideration is whether the petition has to be allowed or not ?

6) Point:

Heard both sides. Perused the documents.

7) The petitioner filed this petition under Rule 74 of CRP and 151 C.P.C seeking issuance of court certificate directing the Registrar of the City Civil Court to grant certified copies of the following five documents from O.S. No. 854/1960:

1) Preliminary Decree copy in O.S. No. 854/1960;

2) Judgment Copy in O.S. No. 854/1960;

- 3) Fair Order in final decree proceedings in O.S. No. 854/1960;**
- 4) Decreetal order in final decree proceedings in O.S. No. 854/1960; and**
- 5) Complaint copy in O.S. No. 854/1960.**

8) The petitioner herein is the GPA holder of the defendants. The main suit was filed by the plaintiffs, who are all the respondents in the present petition, seeking the prayer of declaration and recovery of possession of the suit property.

9) The case of the plaintiff in the main suit is one for declaration and recovery of possession, wherein the plaintiff asserts that the property originally belonged to Rajabather @ Rajagopal Mudaliar, and his son, A.R. Vaithyanathan, filed a suit for partition and accounts in O.S.No.854/1960, which resulted in a final decree on August 13, 1962, subsequently confirmed by the Hon'ble Madras High Court in 1969. The plaintiff further contends that on May 17, 1984, Vaithyanathan and his family sold 13.37 cents of the partitioned land in Survey No. 163/2 to Bafna Mahaveer Chand, who eventually sold the suit property to the current plaintiff on May 11, 2006, thereby establishing a clear chain of title.

10) Conversely, the case of the defendant in the main suit is that the entire 97-cent plot in Survey No. 163/2 originally belonged to Rajabather @ Rajagopal

Mudaliar, who had settled the land upon his son, A.R. Anantha Krishnan, via a registered settlement deed executed on November 24, 1959, which is prior to the 1960 partition suit. The defendants maintain that following this settlement, Anantha Krishnan enjoyed peaceful possession until October 24, 1986, when he sold 7.5 cents to the first defendant and 7 cents to the second defendant, and that they have held joint, unhindered possession since their purchase, further contending that the plaintiff's suit register extract for the 1960 case is unclear regarding the final decree and fails to show that the 1959 settlement deed was ever cancelled.

11) The original suit is in the stage of the defendant side's further witness. During trial, on the plaintiff's side, PW1 to PW3 were examined and 14 exhibits were marked; and on the defendant's side, to DW1 was examined and 5 exhibits were marked. In this stage this petition filed under Rule 74 of civil rules of Practice and 151 C.P.C. The rule 74 of CRP reads as follows :

Production of records

74. Production of records in the custody of a court: —

(1) An application for the production of records in the custody of a Court, shall specify the particular documents required to be produced. Unless it is made to appear to the Court that the production of the original documents is necessary, the party shall be required to obtain and file copies thereof and the original shall not be sent for. If the Court dispenses with the affidavit mentioned in rule 10(2) of Order XIII of the Code it shall record in writing the reasons for so doing.

(2) When a Court finds it necessary to require the production of the records of another Court, it shall address a letter of request as in Form No.22 to the Presiding judge of that court.

(3) Where the document to be sent for by a Court either from its own records or from those of another Court under rule 10 of Order XIII of the Code is an account book or other document not being a record (e.g.) Judgment, decree, written statements, etc., which has to be in the custody of a Court and belongs to a person other than a party at whose instance it is sent for the Court may require the party to deposit in Court before the letter of request is issued, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced.

(4) When the letter of request is to be issued by the Court itself acting on its own motion, it shall be open to the Court to call upon either party to make the deposit as aforesaid.

(5) On the production of the document in compliance with the letter of request, the Court shall cause a notice to be affixed to the notice board that the document has been received and that the parties may apply to the Court for inspection of the same. The court shall not grant inspection to either party, unless it is satisfied that the application is made with the consent of the person to whom the document belongs. After the document has been admitted in evidence, the Court shall unless it considers it necessary to retain the original, direct the parties to specify the portion or portions thereof on which they respectively rely, and require a copy to be made of the same at the expense of the party requiring such portion and shall thereafter with all convenient speed, return the original to the court from which it was received, retaining the copies as part of the record.

Note:- Rule 10 of Order XIII of the Code allows a court, of its own accord or on application, to send for records, but requires that every application be supported by an affidavit showing that the record is material and that copies cannot be obtained. The court should bear in mind the labour which such calls entail and should only make them when satisfied that the records are really needed.

12) In this circumstances it is relevant to read the Order 13 Rule 10 CPC which reads as follows:

Order 13 Rule 10 CPC Court may send for papers from its own records or from other Courts.—

(1) The Court may of its own motion, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

(2) Every application made under this rule shall (unless the Court otherwise directs) be supported by an affidavit showing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

(3) Nothing contained in this rule shall be deemed to enable the Court to use in evidence any document which under the law of evidence would be inadmissible in the suit.

13) Upon consideration of the petitioner's claim, under Rule 74 of CRP and order 13 rule 10 CPC , this Court notes that the petitioner has already marked

two documents mentioned at serial Nos. 1 and 2 as Ex.B1 and Ex.B2 and has stated that they are illegible and not readable. However, this alone cannot be a valid ground to invoke Rule 74 of the Civil Rules of Practice.

14) The affidavit filed by the petitioner does not mention how the other three documents are material to the present suit, as mandatorily required under Order 13 Rule 10 CPC. The petitioner also does not state whether any application was filed for certified copies of documents 3 to 5, as mentioned in the petition, before the Registrar of the City Civil Court. The **Hon'ble High Court of Madras in the case of Sivanandha Vadivel vs The Commissioner on 12 February, 2020 in Civil Revision Petition No.2657 of 2019 and C.M.P.Nos.17539 & 17540 of 2019 published in [https:// indiankanoon.Org/ doc/160188038/](https://indiankanoon.Org/doc/160188038/) held that**

Para 4. It is needless to state that if the petitioners rely upon the judgement and decree passed in the earlier suit, it is always open to the apply for certified copy of the judgement and decree before the court which had passed such decree and let in the same in evidence in support of their case. As rightly held by the court below, when the petitioners could not get certified copies of a judgement and decree from the court concerned, the same could not be called for Rule 74 of the Civil Rules of Practice and the petitioner cannot maintain such a petition in the given facts and circumstances of the case. Thus, this court finds no infirmity in the order passed by the learned Subordinate Judge dismissing the application of the petitioner.

As per the above directions of the Hon'ble High Court of Madras, when applied to the present petition, the petitioner herein has not stated whether they filed a copy application for serial Nos. 3 to 5 documents, and whether the same was not entertained, before filing the present petition. These defects render the petitioner's claim not maintainable. The Hon'ble High Court of Madras has clearly held that when certified copies can be obtained from the court concerned, a petition under Rule 74 of the Civil Rules of Practice cannot be maintained.

15) Moreover this Court finds that the petitioner seeks the **relief of issuance of a court certificate to the Registrar of the City Civil Court** to issue certified copies of the documents as mentioned in the petition. Such a relief is not contemplated under Rule 74 of the Civil Rules of Practice or Order 13 Rule 10 CPC, as both these provisions confer power upon the court to call for records, not for issuance of a certificate to provide certified copies. Therefore, the petition is liable to be dismissed.

16) In the result this petition is dismissed without cost.

Dictated to the Steno-typist directly, typed by him in the computer, corrected and pronounced by me in the open court, this the 8th day of April 2026.

**III Additional District and Sessions Judge,
Tiruvallur at Poonamallee.**

Both side Witnesses and Exhibits : NIL

**III Additional District and Sessions Judge,
Tiruvallur at Poonamallee.**