

**III ADDITIONAL DISTRICT & SESSIONS COURT
TIRUVALLUR at POONAMALLEE**

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

Monday, the 22nd day of June 2026
I.A.No.04/2026
in O.S.No. 2/2017

R. Kavitha, D/o. K. Ramakrishnan,
residing at No.6/16,
Saraswathi Pandurangan Street,
Solapuram Ambattur, Chennai – 53.

..Petitioner / Defendant

//Vs//

G. Nallathambi, S/o. Gnanavel,
residing at No.6, Gandhi Street,
Elango Nagar, Ambattur, Chennai – 23.

... Respondent / Plaintiff

This petition came up before this court for final hearing on 04.06.2026 in the presence of H. Srikanth, S. Sivakumar, S. Sathiyaraj, K. R. Pranav learned counsel for the Petitioner / Defendant, M/s. M.V. Seshachari, C. Harini learned counsel for the Respondent / Plaintiff and upon hearing the both sides and on perusal of oral and documentary evidence, having stood over for consideration till this day, this court passed the following:

ORDER

The petition is filed by the Petitioner / Defendant, under Order VIII Rule 1-A(iii) of CPC prayed to mark the additional document viz., the deposition of PW1 in O.S.No. 48 of 2017 on the file of this Court dated 14.02.2017.

2) The averments made in the common affidavit filed in support of the petition are briefly as follows:-

The Petitioner / Defendant stated that the plaintiff had filed a suit against her to recover Rs.31,91,734/- which included interest on an alleged principal sum of Rs.20,000,000/- (erroneously noted in the text as twenty lakhs but written numerically as two crores). She disputed this debt, asserting that she never borrowed the amount and that the plaintiff had manipulated a blank signed paper collected during a separate, genuine Rs.6,00,000/- loan. Furthermore, she stated that during cross-examination, the plaintiff (PW1) made highly contradictory statements regarding the source and timeline of the alleged funds, claiming the money was sourced from a mother-in-law's machinery sale and used for a son's medical college admission. Pointing to these self-contradictions across related suits (O.S. No. 2/2017 and O.S. No. 48/2017). Consequently, she prayed that the court reopen the evidence of DW1 and recall her to officially mark the plaintiff's deposition dated February 14, 2019, as an additional document. Hence, the petition.

3) The averments of the Counter filed by the Respondent / Plaintiff are in brief as follows :

The Respondent / Plaintiff submitted that the petition filed by the Petitioner / Defendant was not legally or factually maintainable and deserved to be dismissed in limine. The Respondent denied all allegations, specifically refuting that the Defendant borrowed only Rs.6,00,000/- or that any blank papers were misused. Furthermore, the Plaintiff denied that the complaints or depositions across O.S. No. 2/2017 and O.S. No. 48/2017 contained self-contradictory statements or revealed malafide intentions, noting that the document in question was within the Defendant's knowledge throughout the entire proceedings. The Plaintiff contended that the deposition of a living person could not be marked in evidence and that the Defendant, having already completed and closed her evidence, was filing this application at the argument stage solely to harass the Plaintiff, abuse the process of law, and delay the suit. Therefore, the petitioner prayed the court to dismiss the petition with costs.

4) On the side of the Petitioner / Defendant and the Respondent / Plaintiff no witnesses were examined and no exhibits were marked.

5) The point for consideration is whether this petition is allowed or not ?

6) Point:

Heard both sides. Perused the documents.

7) The Respondent / Plaintiff filed the above suit for recover of money. The suit is pending for Defendant side arguments. In these circumstance, the petitioner filed the present application under Order VIII Rule 1-A(iii) of CPC to mark the additional document viz., the deposition of PW1 in O.S.No. 48 of 2017 on the file of this Court dated 14.02.2017.

8) The Order VIII Rule 1A CPC casts a duty upon the Defendant to produce all the documents upon which the relief is claimed or relied upon by the Defendant. The General position of law is that the Defendant has to file the documents that it seeks to rely upon along with the written statement. For any belated filing, leave of the Court is required before the document is taken on record. The Hon'ble Supreme Court in the case of **Sugandhi v. P. Rajkumar reported in (2020) 10 SCC 706** has held that leave can be granted on good cause for non production being shown. The relevant portion of the Judgment reads as under,

Para 8. Sub-rule (3), as quoted above, provides a second opportunity to the Defendant to produce the documents which ought to have been produced in the Court along with the written statement, with the leave of the Court. The discretion conferred upon the Court to grant such leave is to be exercised judiciously. A While there is no straight jacket

formula, this leave can be granted by the Court on a good cause being shown by the Defendant. 9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the Court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, Courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the Court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the Court should take a lenient view when an application is made for production of the documents under sub- rule 3).

9) Before dealing with the rival submissions made on behalf of both the sides, it would be useful to reproduce the provisions contained in Order 8 Rule 1-A (iii) CPC. Same reads as under:

(3) A document which ought to be produced in Court by the Defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

10) In the light of the mandate of the Judgment referred above and the relevant rule, it is open that it is the mandate of the law that Defendant shall produce all the documents along with the Written Statement. However, the Defendant may file documents at the later stage of the proceedings but only with the leave of the Court and for this Defendant has to establish that the document

was not in the possession or power at the time of filing of the written statement or the document is of such relevance that without which the suit cannot be effectively disposed off. Therefore, the application under consideration has to be tested on the touchstone of Order 8 Rule 1A (3) CPC which clearly stipulates that the appropriate time for filing any document in support of defence of Defendant is when the written statement is filed.

11) On perusal of the counter of the Respondent, it is stated that, the Defendant borrowed only Rs.6,00,000/- or that blank papers were misused. Furthermore, the Plaintiff denied that the plaints or depositions across O.S. No. 2/2017 and O.S. No. 48/2017 were self-contradictory or revealed malafide intentions, noting the documents were within the Defendant's knowledge throughout the proceedings. Finally, the Plaintiff contended that the deposition of a living person could not be marked as evidence, especially since the Defendant had already completed and closed her evidence. The above reason stated by the respondent is not sufficient to dismiss the petition.

12) The reasons stated by the Petitioner that the documents now only available to him is satisfied this Court upon considering both parties' contentions, the nature of the case, and the documents presented, the Court permits the Petitioner to produce the documents he relies on, as they will assist the Court in effectively deciding the facts in issue. This will also ensure

a fair trial and curtail multiplicity of proceedings. There is no prejudice caused to the Respondent.

13) In result, this petition is allowed 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 22nd day of June 2026.

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

Exhibits and Witnesses on both sides :- Nil

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