

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

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

Wednesday, the 29th day of April 2026

**I.A.No.04/2026
in O.S.No. 2/2012**

S. Dorai Raj, S/o. Sundaresan,
residing at No. 675, M.T.H. Road,
Mannurpet, Chennai – 600 050.

..Petitioner / 4th Defendant

//Vs//

1) Manova

... 1st Respondent / Plaintiff

2) V. Christibel,

3) V. John Wesley,

4) J. Bilal Ahamed,

5) P. Sathish,

... Respondents / Defendants

This petition came up before this court for final hearing on 20.01.2026 in the presence of M/s. A. Gopalan, U. Vasudevan, B. Nirmala Devi, A. Arun learned counsel for the Petitioner / 4th Defendant, M/s. N.V.N. Margandeyan, V. Rajachandrasekar learned counsel for the 1st respondent / plaintiff, R2 endorsed as 'No Counter', M/s. P. Suresh Babu learned counsel for the 3rd Respondent/2nd Defendant, R4 adopted the counter of R3, R5 set exparte in the main suit, 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 / 4th defendant, under Order VIII Rule 1-A(iii) r/w 151 of CPC prayed to receive the documents i.e., (i) Sale Deed registered as Doc. No. 3752/2012, SRO, Konnur executed by D2 through his POA in favour of D4; (ii) Bank Statement of D4 for the period from 01.03.2011 to 30.06.2011 issued by ICICI Bank, Ambattur Estate Branch, pertaining to Current Account No. 060701510270; (iii) Bank Statement of D4 for the period from 01.03.2011 to 30.06.2011 issued by ICICI Bank, Ambattur Estate Branch, pertaining to savings Account No. 060705001017; (iv) Certificate issued by ICICI Bank, Ambattur Estate Branch, Chennai confirming the credit of Demand Draft amounts paid to D2; (v) Payment details for payment made to various persons on various dates for clearing the Tenants and leases in the suit property along with receipt; (vi) Cancellation of release deed executed by D1.

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

The Petitioner / 4th Defendant submitted that, he was competent to depose evidence. They requested that the averments made in their Written Statement and Additional Written Statement, along with the associated documents, be

considered part of the current proceedings. They further stated that while he had already filed written statements and eight documents, they were now filing this petition to receive additional documents necessary to prove his case. Therefore, the petitioner filed this petition and prayed to receive the aforementioned documents. Hence, the petition.

3) The averments of the Counter filed by the 1st Respondent / Plaintiff are in brief as follows :

The 1st Respondent / Plaintiff stated that the 4th Defendant had fraudulently registered the impugned sale deeds in his own name despite a prior registered sale agreement existing in the Plaintiff's favor. The Plaintiff submitted that after their own oral and documentary evidence was presented and subjected to cross-examination, the 2nd Defendant deposed that the 4th Defendant had paid no money and had obtained the deeds through duress. It was further contended that the 3rd Defendant also contradicted the 4th Defendant's claims and the 4th Defendant was now attempting to introduce fabricated and fraudulent bank statements (Exhibits B to E) just as it was his turn to lead evidence. Further the Plaintiff highlighted a connected criminal case (C.C. No. 92/2024) where the state had filed a charge sheet against the 4th Defendant for forging these very bank statements.

Consequently, the Plaintiff asserted that the 4th Defendant's current application was an act of perjury and a bad-faith attempt to rely on documents already

deemed forged by state authorities. Hence, this petition is liable to be dismissed.

4) The averments of the Counter filed by the 3rd Respondent / 2nd Defendant are in brief as follows :

The Respondent submitted that the petition suffered from fundamental procedural and legal defects, primarily stated that an inordinate and unexplained delay of 13 years in seeking to file additional documents. The 3rd Respondent contended that the petition failed to provide a proper long cause title, creating ambiguity by vaguely describing the parties. Furthermore, the Respondent contended that the petitioner failed to establish the relevance or necessity of the documents, which were already within their possession since the suit's inception in 2012. It was asserted that the belated production suggested an attempt to fill gaps in the case after substantial evidence had already been completed, casting serious doubt on the authenticity of the records. The Respondent also raised technical and substantive legal objections, noting the absence of a mandatory Section 65B certificate for the electronic bank statements, rendering them inadmissible. Additionally, it was submitted that the unilateral cancellation of a registered release deed was void ab initio and legally unsustainable. The Respondent maintained that allowing the petition at this advanced stage would reopen the trial, causing serious

prejudice and further delaying the litigation. Hence, this petition is liable to be dismissed.

4) On the side of the Petitioners / Defendants and the Respondents / Plaintiffs 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 1st Respondent / Plaintiff filed the above suit for the recovery of the balance sale consideration, if the defendants fail prayed to execute the sale deed in favour of the plaintiff; nullity of the documents and the mandatory injunction. The suit is pending for the examination of the Defendant No4 side witnesses. In the circumstance, the petitioner/Defendant No4 filed the present application under Order VIII Rule 1-A(iii) of CPC to receive the additional documents on his side.

8) The Order VIII Rule 1A (1) 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,

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 should 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 Plaintiff, he alleged the bank statements and the connected criminal case was pending before the Judicial Magistrate, Poonamallee. As well as, the 2nd Respondent also raised technical and substantive legal objections, noting the absence of a mandatory Section 65B certificate for the electronic bank statements, rendering them inadmissible. The above reason stated by the respondent is not sufficient to dismiss the petition.

12) The petitioner seeking permission in the interest of natural Justice he seeking to produce the documents to prove his contention, 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 stated in the Petition , 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 Respondents.

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 29th day of April 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.**