

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

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

Friday, the 19th day of June 2026
I.A.No.05/2026
in O.S.No. 284/2019

A. Sivakumar, S/o. Alagesan,
residing at No.5/555, Agasthiar Street,
Second Cross Road, Mugappair East,
J.J. Nagar, Chennai – 37.

..Petitioner / 1st Defendant

//Vs//

N. Alagarsamy, S/o. Nagaiah Gounder,
No.11/5, Aeeeswarer Colony 1st Street,
Cromptet, Chennai – 600 044.

... Respondent / Plaintiff

This petition came up before this court for final hearing on 02.04.2026 in the presence of Mr. M. Anbu, A. Sneha learned counsel for the Petitioner / 1st Defendant, M/s. D. Ramesh, R. Kannan learned counsel for the Respodent / 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 / 1st Defendant, under Order VIII Rule 1-A(iii) of CPC prayed to condone the delay in filing the following documents

and to receive and mark the documents i.e., (i) CSR No. 296/2019 dated 29.05.2019 and (ii) Loan Sanctioned letter under Bank's Star Home Loan Scheme.

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

The Petitioner / 1st Defendant submitted that the above suit was filed by the Respondent/Plaintiff against the defendant. At the filing of the written statement of the petitioner, the above documents are not traceable. After an extensive search the above documents are traced and filed along with the Petition. Those documents are important to prove his case. Therefore, the petitioner prayed to condone the delay and to receive and mark these documents on their behalf. 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 has filed without any valid reason and the same was filed with intention to drag on the case proceedings. The reasons mentioned in the petition were lame-excuses. Further it is contended, the above documents are Xerox in nature and it could not be received and marked. Under these circumstances, this petition is liable to be dismissed.

4) On the side of the Petitioner / 1st 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 seeking for the relief of declaration that the sale deed dated 19.06.2019 is null and void ,declaration that the Memorandum of deposit of title deeds executed by 2nd defendant infavour of 3rd defendant and for specific performance of contract coupled with alternative relief of refund of advance amount . The suit is pending for the examination of the Defendant side witnesses. In these circumstance, the petitioner filed the present application under Order VIII Rule 1-A(iii) of CPC to condone the delay in filing the documents and to receive and mark the documents on their side.

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 petitioner has filed this petition without any valid reason and it filed with intention to drag on the case proceedings. 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 19th 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.**