

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.

Tuesday, the 12th day of August 2025.

I.A. NO.7 OF 2024
IN
O.S. NO.32 OF 2014

1. S.Palani
2. Krishnamurthy
3. Chandra
4. Ramani

..... Petitioners/Plaintiffs

Versus

1. R.Emarose Ammal
2. E.Umamaheswari
3. R.Ashok Kumar

..... Respondents/Defendants

This petition came on 28.07.2025 before me for final hearing in the presence of Mr.R.Krishnaswamy, Learned counsel for the Petitioners/Plaintiffs and Mr.P.V.Murlidhar, Learned counsel for the Respondents/Defendants. Upon hearing both sides and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

This petition has been filed by the petitioner under Order VII Rule 14(3) of CPC to excuse the delay caused in the production of documents in the above suit.

2. Brief averments of the affidavit filed by the petitioner are as follows:

2.1. The petitioners are the plaintiffs in the suit. The suit has been filed against the defendants seeking for the relief of a declaration of the petitioners' right and title in the suit property, along with various other reliefs. The suit property, along with other properties, originally belonged to Bakkiammal, who had no issues. The said

Bakkiammal executed a Will dated 20.07.1929, whereby the southern 20 cents of the 40-cent suit property was bequeathed in favor of her paternal grandmother, Vaduvambal, to be enjoyed by her during her lifetime, and thereafter by her children. While filing the suit we were able to file only the Photostat copy of the said Will dated 20.07.1929 since the original of the said Will was with the said Ponnammal and Ramalingam. However, we have obtained the certified copy of the said Will and wanted to substitute the same in place of the Photostat copy of the said Will which was already filed as Document 2 filed along with the plaint filed in the above suit. While so at the time of marking the certified copy of the said Will the same was objected on the ground that the same was not produced while filing the above suit. The original of the said Will admittedly executed by Vaduvambal is with the defendants, it is only the photostat copy of the said will was filed. The petitioner submits that execution of the said Will was not denied and rather the same was admitted by the defendants. As for the northern 20 cents of the 40-cent suit property, it was bequeathed to Ponnammal and her son Ramalingam. The late Ponnammal, along with her son Ramalingam, the predecessors of the defendants, executed a letter dated 29.03.1954, acknowledging that they had already released their northern 20 cents out of the 40-cent suit property to Vaduvambal and Saminatha Mudaliar, and that possession of the said land had already been delivered to the petitioners. When the suit was filed, only the Photostat copy of the said letter dated 29.03.1954 was submitted, as the original of the letter had been laminated. Hence the petitioners now seek to have the original laminated letter received in evidence, substituting it for the Photostat copy. When the laminated original letter was presented for marking, an objection was raised on the grounds that the document was neither duly stamped nor registered, and moreover, a part of the letter was partially destroyed, making it inadmissible.

2.2. The petitioner is ready and willing to pay the necessary stamp duty and penalty for the said letter dated 29.03.1954. Although the document was not registered, the

petitioner intends to rely on it only for the collateral purpose of proving their possession of the land over the years. Therefore, the petitioner seeks to impound the document and pay the stamp duty and penalty for the letter dated 29.03.1954, in order to mark it as evidence, subject to objection regarding its non-registration. The petitioner has filed a separate application to explain the delay caused in the production of the original letter dated 29.03.1954, along with one other document. Hence this petition.

3. Brief averments of the counter filed by the 3rd Respondent and adopted by other Respondents are as follows:

3.1. The 3rd respondent in the above application is the 3rd defendant in the suit. The respondents submit that the present application has been filed for marking the letter dated 29.03.1954 alleged to have been executed by the petitioner father and maternal grandmother Vaduvambal. In fact in the said letter, the date is not visible and the said portion is also not available. Under such circumstances, this respondent does have any clue on how the petitioner has given the date for the letter. The petitioner has filed the present application to receive the said document which required stamp duty and registration. As the document suffers from the aforementioned two defects, the same cannot be received in the evidence even for proving collateral purpose, possession.

3.2. The petitioner in their pleadings has claimed that they are the owners of the property by virtue of adverse possession and now claiming independent title which is totally contradiction and even they have failed to produce the original will. The petitioner further submits that there is no proper explanation given for the delay in producing the original document. Moreover, the document is laminated and its genuiness cannot be verified. On the ground of all these defects, both the applications deserves to be dismissed, since the petitioners have no prima facie case or bonafide in the present petition. The balance of convenience is in favour of the respondents alone. Hence, this petition is liable to be dismissed with exemplary costs.

4. Evidences :-

Neither the petitioners nor the respondents have placed any oral or documentary evidence before this court.

5. Point for Determination :

Whether this petition can be allowed or not.

6. Discussion and Findings:

6.1. In the present case, the petitioners, who are the plaintiffs in the suit, seek to receive two documents as evidence namely, the certified copy of the Will executed by Bakkiammal on 20.07.1929 and the letter of release dated 29.03.1954 executed by Ponnammal and Ramalingam in favor of Vaduvambal and Swaminatha Mudaliar. These documents are essential for the petitioners to prove their ownership rights to the suit property and to support their claim for permanent injunction. The first document, the Will dated 20.07.1929, was executed by Bakkiammal, who bequeathed the southern 20 cents of the 40 cents suit property. The petitioners had initially filed only a Photostat copy of this Will along with the plaint. However, they now seek to replace the Photostat copy with the certified copy, which they claim to have recently obtained. The respondents did not dispute the execution of the Will but objected to its substitution at this stage, as the certified copy was not produced at the time of filing the suit. Despite this, the Court should be inclined to receive the certified copy of the Will for the purpose of marking it as evidence, acknowledging that the proof, relevancy, and admissibility of the Will can be determined later when the document is actually exhibited.

6.2. The second document, the letter of release dated 29.03.1954, is crucial for establishing the petitioners' claim over the northern 20 cents of the 40 cents property. The letter acknowledges that Ponnammal and Ramalingam, predecessors of the defendants, had already released their claim to the northern portion in favor of Vaduvambal and Saminatha Mudaliar, and that possession had been delivered to

them. However, the respondents objected to the receptance of this letter as evidence on multiple grounds. They pointed out that the document suffers from two major defects, it is not properly stamped, and it is not registered, which are mandatory requirements under the relevant legal provisions. Moreover, part of the document has been destroyed due to its laminated condition, raising questions about its authenticity and completeness. These defects led the respondents to argue that the letter could not be admitted into evidence, even for the purpose of proving the petitioners' possession of the land.

6.3. The petitioners, in their response, agreed to pay the necessary stamp duty and penalty to cure the defects of insufficient stamp duty and sought to impound the document in order to rectify these defects. However, the Court had already dismissed a prior application under Section 35 of the Stamp Act to impound the letter, citing reasons that the document could not be admitted due to its failure to meet legal formalities. In light of this, the Court has decided not to allow the letter of release to be received as evidence at this stage.

6.4. On the legal front, the Court considered the procedural aspects of the case, particularly the importance of allowing the petitioners to present their evidence. It is well established that the relevance and admissibility of a document are determined at the time the document is exhibited. The Court found that permitting the certified copy of the Will to be marked as evidence would not cause prejudice to the respondents. The Court also noted that the respondents would have the opportunity to cross-examine the petitioners and test the veracity of the documents produced. Hence, this Court finds that the above Will is highly relevant to the facts of this case and will assist the Court in achieving complete and effective adjudication.

6.5. Coming to the second document, the letter of release extinguishes and creates rights between the parties and is compulsorily registrable under Section 17 of the Registration Act, 1908, and must be duly stamped. The expression “for any purpose”

under Section 35 of the Stamp Act is qualified by the further condition “unless such instrument is duly stamped.” If an unstamped or inadequately stamped sale deed is produced in Court and sought to be marked as an exhibit, it must first pass the test of admissibility. Even for the limited purpose of proving a collateral transaction, such a document must first be impounded, and the appropriate duty and penalty, as stipulated in clause (a) of Section 35 of the Indian Stamp Act, 1899, must be assessed and collected. An unregistered document suffers the consequences of non-registration, subject to the exception where it is introduced solely to prove a “collateral transaction.” Therefore, it becomes important to determine whether the petitioner seeks to mark the impugned document to prove a primary transaction or merely a collateral one.

6.6. Upon perusal of the affidavit and other materials, it appears that the petitioner seeks to mark the impugned document to prove possession over the suit property. At this stage, it is useful to refer to the judgment of the Honourable Madras High Court in “*B. Manjula vs. Subramania Udayar*”, in CRP No.1534 of 2022 wherein the relevant portion reads as follows:

“In the case in hand, the respondent/defendant filed a petition to cure the deficit stamp duty by seeking an order to impound the document. He had also chosen to pay the stamp duty with penalty, but that does not cure the mandatory requirement of registration as contemplated under Section 17 of the Registration Act. If the document is not registered under Section 17 of the Act, then its admissibility is questionable as per Section 49 of the Registration Act. When the plaintiffs have filed a suit for title, the defendant cannot succeed merely by establishing possession but must establish title. Therefore, it cannot be said that the endeavour of the respondent/defendant is to prove possession over the suit property and not title. It is not the case of the respondent/defendant that he was in adverse possession of the suit property continuously, to the knowledge of the plaintiffs, and perfected his title by

adverse possession. His sole contention is that he obtained title by virtue of a sale letter dated 05.03.1983 executed in his favour by the original owner, Kanniyappa Udaiyar. In such a case, it was obligatory for the defendant to get the sale deed registered in order to place it in evidence before the Court. Since the unregistered sale letter does not convey title, the learned Trial Judge ought not to have admitted Ex.B1 in evidence. In view of the above reasons, I hold that the unregistered sale letter dated 05.03.1983, marked as Ex.B1, should be rejected as inadmissible.”

In the above case, the Honourable Madras High Court categorically held that, in suits for declaration, parties cannot mark an unregistered and unstamped document merely by stating that they intend to do so for collateral purposes, because in declaration suits the parties are required to prove their title and not mere possession.

6.7. In the present case, although the petitioner has prayed to mark the release deed for the purpose of proving possession, this Court finds it difficult to accept such a submission. This suit is filed seeking the relief of declaration with a permanent injunction, and the defendant cannot succeed merely by establishing possession; he must prove title. Therefore, it cannot be said that the petitioner's intention is limited to proving possession rather than title, as he relies upon and traces his title through this document. Even though the petitioners have expressed willingness to rectify the defects, the Court finds that these procedural shortcomings are significant enough to prevent the document from being admitted in evidence. Accordingly, this Court holds that the second document is inadmissible in evidence.

6.8. Hence, this petition is allowed in part permitting the Will dated 20.07.1979 to be received as additional document through this petition, subject to proof and relevancy, which will be determined at the stage of marking.

7. Result :

In the result, the petition is partly allowed. No costs.

Dictated by me to the steno-typist, transcribed and typed by her, corrected and pronounced by me in the open court, on this the 12th day of August 2025.

**DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.7/2024
O.S.No.32/2014
Date:12.08.2025
DMC,PNI.