

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

Present : Tmt. R.D. Gurulakshmi, M.A., M.L., P.G.D.I & C.L.,

District Munsif, Tiruttani.

Dated the Tuesday of 18th Day of February 2025

I.A.No.4/2025 in OS.No.67/2017

(CNR.No.TNTR21-000074-2017)

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| 1. Premavathy | |
| 2. Periyasamy | ... Petitioners /2nd & 3 rd Defendants |
| | /Versus/ |
| 1. Suresh Kumar | |
| 2. Alexander | ... 1,2 Respondents/ Plaintiffs |
| 3. Moorthy (died) | ... 3 rd Respondents/1st defendant |

This petition came up before me for the final hearing on 12.02.2025 in the presence of M/s. A. Venugopal, D. Nagaraj, Advocates for Petitioners /2, 3 Defendants, M/s. G. Kamalakannan, Advocates for Respondents/ Plaintiffs, 3rd respondent died. Upon hearing both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

This petition is filed under Order 18 Rule 17 of CPC to recall the DW1 evidence for marking of additional documents.

1. The averments of the petition in brief are as follows:-

The case was posted for cross of Dw1. Since the suit property and some other properties had purchased by the 1st defendant who is the petitioner's wife from various persons under registered sale deed dated 08.01.2001. Further due to non availability, over sight and old age problem, does not filed the same along with written statement or earlier petition in IA.No.1/2024. The said document is very utmost required to prove their defence on merits. The said document was misplaced and now only traced, then unable to file the same in time. If the petition is allowed there is no any prejudice caused to other side and if not allowed the same the petitioner will be put into much loss and hardships. Hence, this petition is filed.

2. The counter filed on behalf of the Respondents in brief:-

The petition is not maintainable either in law or on facts. The above suit

stands posted for Dw1 cross continuation by the respondent's counsel. After cross examination to fill up lacuna of the case, the petitioner filed the present application without any reasons. The documents filed by the petitioner is secondary evidence and the same is not admissible in law. The petitioner not chosen to file original documents before this court. At present the petition would not lie at all, after closing of the Dw-1 evidence only, the petition is maintainable. There is no specific averments in written statement as regarding the documents concern. The petitioner filed this petition to drag on proceedings and to waste the time of this court. There is delay in filing petition. There is no bonafide and valid reasons in this petition. Hence this petition has to be dismissed.

3. **Point for determination:**

Whether the petitioners are entitled to the relief as sought for? or not?

4. According to the petitioner, due to non availability, over sight and old age problem, the petitioner does not filed the documents along with written statement or earlier petition. The said documents are very utmost required to prove their defence on merits. Hence the petitioner prays to allow this petition. The Respondents resisted the petition by contending that documents filed by the petitioner is secondary evidence and the same is not admissible in law. The petitioner not chosen to file original documents before this court. There is no specific averments in written statement as regarding the documents concern. The petitioner filed this petition to drag on proceedings. There is no bonafide and valid reasons in this petition. Hence he prays to dismiss this petition.

5. Heard learned counsel for the both the parties. On perusal of record, on 14.10.2024 to 06.11.2024 this case was posted to defendant side evidence. On 06.11.2024 Dw1 examined in chief and petition filed to receive the additional documents in IA.No.3/2024. The IA.No.3/2024 was allowed on 20.11.2024. On 28.11.2024, 10.12.2024, 18.12.2024, 07.01.2025 and 22.01.2025 this case was adjourned for Dw1 cross. In this stage petitioner filed this petition to recall the Dw1 for marking of documents. From 26.09.2024 to till today Dw1 not ready for

producing documents and marked the same. No valuable reasons shown in this petition for not producing and marking the documents in time. In this circumstance of the case, to prevent multiplicity of proceedings, to provide the petitioners an opportunity to prove their case and for proper adjudication of the case, this petition has to be allowed on costs.

In the result, this petition allowed on condition that the Petitioners have to pay a sum of Rs.1000/- to the respondents/plaintiffs on or before 25.02.2025 failing which this petition stands dismissed. Call on 25.02.2025.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 18th day of February 2025.

District Munsif,
Tiruttani.

Petitioner and Respondents side Exhibits and witness: NIL

District Munsif,
Tiruttani.