

**IN THE COURT OF THE II ADDITIONAL DISTRICT JUDGE,
THOOTHUKUDI.**

**Present : Tmt. M. Breetha, M.L.,
II Additional District Judge,
Thoothukudi.**

Wednesday, this the 02nd day of September 2026

I.A. No. 11/2026

in

O.S. No. 35/2018

J. Thangadurai ... Petitioner/3rd Defendant

..Vs..

1) J.G.Rajasundaram ... 1st Respondent/Plaintiff

2) J. Flawrance

3) A. Kanagamani

4) D. David Kovilraj

5) A. Saravanakumar

6) K. Vasunthara

7) R. Dhanalakshmi ...2 to 7 Respondents/Defendants 1, 2, 4 to 7

This petition came before me for final hearing on 31.08.2026 in presence of Thiru.S.Shanmuga Sundaram, Learned Advocate for Petitioner/3rd Defendant and Thiru.D.Thompson, Learned Advocate for 1st Respondent/Plaintiff and upon hearing both side arguments and on perusal of records and having stood over till this day for consideration of this court, this court delivers the following:

ORDER

This petition is filed by the petitioner/defendant in the main suit under Order 8 Rule 3 and 151 of C.P.C. to receive documents.

2) Brief averments of the petition and affidavit:

The petitioner is the 3rd defendant in the original suit and that the original suit has been posted for D1 to D5 side further evidence and has averred that the Original Legal Opinion in S.No.1533/1C2 dated 19.09.2011, Original Legal Opinion in S.No.1533/1C1 dated 19.09.2011, Original Computerised Patta in the name of 3 and 5th defendant dated 25.03.2011, Online copy of Patta in the name of 3 and 5th defendant, Original Building permit and Plan issued by the Panchayat president dated 27.01.2011, Original Property Tax Receipt dated 25.03.2011, Original Property Tax Receipt dated 07.05.2011, Original Property Tax Receipt (14 Nos.), Original Trade License Renewal Receipt in the name of 3rd defendant dated 28.03.2025 which are produced along with the petition are vital documents to prove his case and hence, constrained to file this petition and prays to allow the same.

3) Brief averments of the counter filed by 1st respondent /plaintiff:

The respondent has denied all the averments made in the petition and has contended that the reason for non-production of the same before the Court is not bonafide and that the document is not relevant to the issues to be decided in the suit and pray for dismissal of the petitions with costs.

4) The point for consideration is whether this petition can be allowed or not?

5) Both sides are heard. Records have been perused. The main suit is pending for defendants D1 to D5 side further evidence. At this stage, the petitioner, who is the 3rd defendant has come forward with this application to receive the documents. Being the 3rd defendant, he has a legal bounden duty to prove his case through documentary evidence. This court would like to impress that mere producing of the document may not amount to take the same in evidence. The established

norms and procedures to be followed in the petition which was filed to receive the documents belatedly has been held by the *Hon'ble Madurai Bench of Madras High Court in the case Gurusamy and others Vs. Santhanam reported in 2005(5) CTC 102 as follows:*

“ ... Generally those documents are received subject to proof and relevancy and the admissibility of the documents in evidence should be decided at the time of marking the same as exhibits and at the time of examination of the witnesses, thereby making it as evidence. Till such time the court is not expected to go through the admissibility of the document. Mere producing the documents before the court, whether it is registered or unregistered documents, may not amount to taking the same in evidence as understood in law, and there is further stage for the documents to take a shape of evidence, for relying, only at that stage, the admissibility on the basis of stamp duty, registration, etc. has to be seen in detail...”

6) As per the above said principle, this court is of the view that the admissibility of the document cannot be decided at this stage and the document can be received subject to its proof and relevancy. Moreover, as the Counsel for the respondents have got sufficient opportunity to raise their objections at the time of marking the documents and to cross examine the witness regarding that document, if it is marked. In such circumstances, this court is of the opinion that by allowing these applications, no prejudice would be caused to the other side.

7) Therefore, for the above reasons, this court is of the view that it is just and necessary to receive document. Therefore, for the above said reasons and in the interest of justice, this petition stand allowed.

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

Dictated to the Steno-typist, typed by her, corrected and pronounced by me in open Court, this the 02nd day of September 2026.

**II Additional District Judge,
Thoothukudi.**

Petitioner side witnesses:- Nil

Respondents side witnesses:- Nil

Petitioner side documents:- Nil

Respondents side documents:- Nil

**II Additional District Judge,
Thoothukudi.**

**II ADJ, Thoothukudi
Draft/Fair
Order
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Dated : 02.09.2026**