

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),  
VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,  
Additional District Judge(FTC),Vellore.

Dated this the 19<sup>th</sup> day of January 2023, Thursday

I.A.NO.2/2022 in  
O.S.NO.100/2020

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M.Venkatesan

.. Petitioner/Plaintiff

//Vs//

V.Sooriyakumar

..Respondent/Defendant

This petition cameup before me on 12.01.2023 for final hearing in the presence of Thiru.R.J.Mohan, Counsel for the petitioner and of Thiru.S.Gunasekaran and Thiru.G.Vijayabaskar, Counsels for the respondent and upon hearing the arguments of both sides and upon perusing the entire case records and having stood over for consideration, till this date this court delivered the following:-

**ORDER**

Petition filed by the petitioner under Sec.151 of CPC prays to reopen the P.W.1 Chief for marking the Additional Document namely Income Tax Return Acknowledgment Assessment year 2021-2022.

**2.The averments of the affidavit is as follows:-**

The Petitioner herein is the Plaintiff in the above suit. The petitioner filed the suit for recovery of money from the respondent. The respondent is

not yet cross examined him. The Petitioner already marked 9 exhibits on his side and he filed petition to receive additional document namely Income Tax returns filed to the Income Tax department for the assessment year 2020-2021 which is necessary to prove the transaction with the respondent/defendant. The petitioner got the acknowledgment of Income Tax returns now only from his auditor and the same has to be marked as exhibits on his side further exhibit. For the purpose of marking additional document, it is necessary to reopen the evidence on behalf of the petitioner and examine him further as his chief examination. If the above case is not re-opened for the purpose of his chief examination and to mark the additional document, he will be put to irreparable loss and hardship. Hence the petitioner filed this petition and prays to allow the application.

**3. Brief averments of the counter filed by the respondent is as follows:-**

This petition is not maintainable either in law or on facts. All the affidavit averments are denied except those that are admitted by the respondent herein. The alleged pronotes based on which the petitioner has filed this suit is dated 20.08.2018, 05.11.2018, 25.04.2019, 10.06.2019 and 15.11.2019. But the petitioner herein has filed the above petition praying to re-call him to mark the additional document i.e., the alleged income tax return for the period 2020-2021 that was submitted by the petitioner on 20.11.2021 is not maintainable as the same is not pertaining to the period of

the alleged suit pronotes and the same is after the institution of this suit and the same clearly shows that it is a prepared document to suit the convenience of the petitioner and the petitioner has not stated any reason in the affidavit for the delay in filing the same on this aspect this petition is liable to be dismissed.

4. The point for consideration in this petition is;

Whether the petition is to be allowed or not?

**5. Point:**

The petitioner stated that he filed petition to receive additional document namely Income Tax returns filed to the Income Tax department for the assessment year 2020-2021 which is necessary to prove the transaction with the respondent/defendant. The petitioner got the acknowledgment of Income Tax returns now only from his auditor and the same has to be marked as exhibits on his side further exhibit. For the purpose of marking additional document, it is necessary to reopen the evidence on behalf of the petitioner and examine him further as his chief examination.

But the respondent denied the allegations and stated that the alleged pronotes based on which the petitioner has filed this suit is dated 20.08.2018, 05.11.2018, 25.04.2019, 10.06.2019 and 15.11.2019. But the petitioner herein has filed the above petition praying to re-call him to mark the additional document i.e., the alleged income tax return for the period

2020-2021 that was submitted by the petitioner on 20.11.2021 is not maintainable as the same is not pertaining to the period of the alleged suit pronotes and the same is after the institution of this suit and the same clearly shows that it is a prepared document to suit the convenience of the petitioner and the petitioner has not stated any reason in the affidavit for the delay in filing the same on this aspect this petition is liable to be dismissed.

Even though the respondent denied the allegations but not made any serious objections with regard to the reopening of the evidence of the petitioner and to recall the petitioner for the purpose of marking the additional document and further even though the respondent stated that the document now sought to be marked is not pertaining to the period of alleged pronotes and it is after the institution of the suit but the relevancy of the document can be decided at the time of marking the document. The point to be considered in this petition is whether the petitioner side chief evidence can be reopened and petitioner can be recalled for the purpose of marking the document. The respondent has not made any serious objection for reopen and recall the petitioner side evidence. Further the petitioner has been examined in chief only and before the cross examination of the petitioner, the present petition has been filed. Hence in the interest of justice and in order to avoid further delay and since the petitioner has not been cross examined , the petition may be allowed.

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

Dictated to steno typist directly, typed by her, corrected and pronounced by me in open court, this the 19<sup>th</sup> day of January 2023.

**Additional District Judge(FTC)  
Vellore.**

**Both side witnesses and Exhibits:**

NIL

**ADJ (FTC),  
Vellore.**

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),  
VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.REVATHY, M.A.,M.L.,  
Additional District Judge(FTC),Vellore.

Dated this the 19<sup>th</sup> day of January 2023, Thursday

I.A.NO.2/2022 in  
O.S.NO.100/2020

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M.Venkatesan, aged 59 years, S/o.Late.Kari Muniayya Naidu, Hindu, residing at  
Senji Village and Post, Via Latheri, K.V.Kuppam Taluk – 632 202.

.. Petitioner/Plaintiff

//Vs//

V.Sooriyakumar, aged 38 years, S/o.Venkatesa Mandiri, Hindu, residing at  
Aayakulam Village, Senji Post, K.V.Kuppam Taluk, Vellore District.

..Respondent/Defendant

Petition filed by the petitioner under Sec.151 of CPC prays to reopen the  
P.W.1 Chief for marking the Additional Document namely Income Tax Return  
Acknowledgment Assessment year 2021-2022.

This petition cameup before me on 12.01.2023 for final hearing in the  
presence of Thiru.R.J.Mohan, Counsel for the petitioner and of  
Thiru.S.Gunasekaran and Thiru.G.Vijayabaskar, Counsels for the respondent and  
upon hearing the arguments of both sides and upon perusing the entire case  
records and having stood over for consideration, till this date this court doth  
order and decreetal order as follows:-

**DECREETAL ORDER**

1. That the petition be and the same is hereby allowed;
2. That there is no cost.

Given under my hand and the seal of this court, on this the 19<sup>th</sup> day of  
January 2023.

**Additional District Judge(FTC),  
Vellore.**