

**IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM,  
VELLORE DISTRICT.**

Present: **Tr.K.Karthick Asath, B.A.,B.L.,(Hons).,LLM.,**  
District Munsif,  
Gudiyattam.

Wednesday, this the 18<sup>th</sup> day of February 2026

**I.A. 05/2026**  
**in**  
**O.S.No. 97/2013**

A. Viswanathan .... Petitioner/ 5<sup>th</sup> Defendant

// Versus //

1. P. Venkatesan .... Respondent/ Plaintiff

2. P. Arumugam (Died)

3. P. Rathinam

4. Gangaiyan

5. P. SUndararajan (Died)

6. A. Chandrasekar

7. A. Vijayakumar

8. A. Asokan

9. A. Latha

10. A. Deepa

11. S. Kumar

12. S. Deivaiyanai

13. S. Siva

14. Kannamal

15. Jayapoornan (Died) .... Respondents/ Defendant Nos.1 to 4, 6 to 15

This petition came up on 09.02.2026 before me for final hearing in the presence of Thiru.A.L.Suresh Babu, Advocate for the petitioner and Thiru.K.Elango, Advocate for the 1<sup>st</sup> respondent and Thiru.B.S.Giri Prasadh, Advocate for the respondents 3, 4 and 13, 14 and the respondents 6 to 12 are set exparte on 07.02.2026 and upon perusing

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the case records and having stood over for consideration till this day this court delivered the following.

**Order**

Petition filed under Section 151 of Code of Civil Procedure to direct the 13<sup>th</sup> respondent to examine herself first, and herself further evidence first, if she wants to examine herself as witness and produce her side further evidence if any and examine them and pass necessary order.

**1. The averments of the petitioner in the application:-**

The petitioner stated that the 1<sup>st</sup> respondent filed partition suit against the petitioner and other defendants. Except A schedule property i have no objection to effect the partition. The A schedule property settled by the grand mother infavour of the petitioner. The settlement deed acted upon. The 13<sup>th</sup> defendant alone supporting the case of the plaintiff he was fully supporting the plaintiff case hence he has to examine first before the petitioner produce his witnesses on that the present petition is filed for direction.

**2. The averments of the counter filed by the 1<sup>st</sup> respondent:-**

This petition to direct the 13<sup>th</sup> defendant to examine herself first in the above case is not maintainable. Only to drag on the proceedings the present petition is filed. The petitioner cannot compel other defendants to depose evidence. It is false to state the 13<sup>th</sup> defendant supporting the plaintiff case. The petition is not maintainable hence prayed to dismiss the petition.

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**3. The averments of the counter filed by the 13<sup>th</sup> respondent:-**

This petition to direct the 13<sup>th</sup> defendant to examine herself first in the above case is not maintainable. Only to drag on the proceedings the present petition is filed. The petitioner cannot compel other defendants to depose evidence. It is false to state the 13<sup>th</sup> defendant supporting the plaintiff case. The 13<sup>th</sup> defendant filed written statement and stating the real facts. The grand mother of this respondent was not purchased the A schedule property. The petition is not maintainable hence prayed to dismiss the petition.

4. Both side enquiry heard.

**5. Point for consideration:-**

Whether this application is liable to be allowed ?

**6. Evidence:-**

Neither of the parties to this application have adduced any oral or documentary evidence.

**7. Discussion:-**

On perusing the available records this court delineate and proceeds its findings based on the following discussion.

7.1. The petitioner is the 5<sup>th</sup> defendant in the main suit. The 1<sup>st</sup> respondent filed suit for partition against the petitioner and other respondents 2 to 15. While the suit posted for defendants side evidence the

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present petitioner filed this petition and stated that the 13<sup>th</sup> defendant fully supporting the case of the plaintiff hence pleased to direct the 13<sup>th</sup> defendant to examine himself first after that the petitioner/5<sup>th</sup> defendant produce his side evidence.

7.2. Per contra the plaintiff and 13<sup>th</sup> defendant filed separate counter and stated that he has no right to compel the defendant to depose evidence, the petitioner have no prima facie case to file this petition hence the petition is not maintainable and prayed to be dismissed. For considering the present petition it has to be discussed whether the 13<sup>th</sup> defendant supporting the case of the plaintiff.

7.3. On perusing the available records the 1<sup>st</sup> respondent/plaintiff filed suit for partition along with declaration to declare the settlement deed dated 06.05.2010 as null and void. On perusing the settlement deed it was executed by the grand mother of plaintiff and 5<sup>th</sup> defendant in respect of A schedule property infavour of 5<sup>th</sup> defendant. The 13<sup>th</sup> defendant filed his written statement on 21.10.2024 on perusing his written statement he admit the case of the plaintiff by stating their pleadings regarding the suit property are true and specifically denied the settlement deed executed infavour of the 5<sup>th</sup> defendant in para No.8 and prayed to allot appropriate shares. It is further submit that on perusing the cross examination of plaintiff done by the 13<sup>th</sup> defendant counsel, in his cross examination is specifically questioned only about the property settled infavour of the 5<sup>th</sup> defendant and in the final question the plaintiff deposed that he has no objection for giving share to the 13<sup>th</sup> defendant. On perusing the written statement filed by the 13<sup>th</sup> defendant and his cross examination of the

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plaintiff it is clearly shows that the 13<sup>th</sup> defendant supporting the case of the plaintiff and denying the settlement deed executed infavour of the 5<sup>th</sup> defendant. In this circumstances the reasons stated by the petitioner for directing the 13<sup>th</sup> defendant to produce evidence before the 5<sup>th</sup> defendant adducing his witnesses is acceptable. Because the plaintiff and 13<sup>th</sup> defendant are sailing in a same direction on that if the 13<sup>th</sup> defendant adduce any evidence against the 5<sup>th</sup> defendant in a later stage the 5<sup>th</sup> defendant once again has to adduce further evidences to deny the evidence adduced by the 13<sup>th</sup> defendant. The citation given by the petitioner passed in Smt.Kamala Devi Vs Rajendra Kumar and others passed by the Hon'ble Rajasthan High Court is perused and considered. On that the prayer claimed by the petitioner will not cause any prejudice to the respondents. On considering the above discussion on interest of justice and for avoid multiplicity of proceedings this court inclined to allow this petition.

#### **8. Result:-**

As a result this petition is allowed on that directing the 13<sup>th</sup> defendant to produce his side evidence or witnesses before the 5<sup>th</sup> defendant producing his evidence or witnesses.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 18<sup>th</sup> day of February 2026.

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**Petitioner side Witnesses and Exhibits :-** Nil

**Respondent side Witnesses and Exhibits :-** Nil

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