

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE, VIRUDHUNAGAR**

Present : **Tmt.S.K.ANGALAESWARI, B.A., B.L.,**  
**ADDITIONAL DISTRICT JUDGE,**  
**VIRUDHUNAGAR.**

Tuesday, the 26<sup>th</sup> day of August, 2025

**I.A.No.11/2025 in**  
**OS.No.11/2020**

1. C.Shanthi ... Petitioner/1st Defendant

Vs.

1. S.Rajammal  
2. T.Anbuprabu  
3. T.Gengadevi  
4. R.Ayyappan ... 1 to 4 Respondents/Plaintiffs

5. R.Vijayarajan  
6. R.Priyadarshini  
7. S.Amutha  
8. M.Amuthavalli  
9. M.Praveen  
10. M.Yuvaraj  
11. S.Shunmugarajasekaran  
12. S.Thanganila  
13. S.Manikandan  
14. S.Ramaiya  
15. R.Jeyalatha  
16. S.Vijayalakshmi  
17. S.Muthumari  
18. V.Ethiraj  
19. M.Murugesan  
20. Joint Sub-Registrar -2, Virudhunagar  
21. District Collector, Virudhunagar  
22. Revenue Divisional Commissioner  
Aruppukkottai.

23. Revenue District Magistrate, Virudhunagar ... 5 to 23 Respondents/  
2 to 20 Defendants

This petition came up before me on 01.08.2025 for final hearing in the presence of Thiru.G.Mariappan, learned advocate for the Petitioner/1st Defendant and Thiru.S.Masilamani, learned advocate for the 1 to 4 Respondents/Plaintiffs and R18, R19 endorsed that No Objection and 5 to 17, 20 to 23 Respondents/Defendants remained exparte and upon hearing the arguments on both sides and having stood over for my consideration till this day, and this Court delivered the following:

### **ORDER**

This petition is filed by the Petitioner/1st Defendant under Rule 76 of Civil Rules of Practice and Section 151 of CPC, before examining additional witnesses on behalf of the petitioner/1st respondent, the files containing the Will (Document No. 33/2001) registered on 23.08.2001 at the Office of the Joint Registrar No.2, Virudhunagar should be handed over to the court.

#### **2. The averments of the Petition affidavit in brief are as follows:**

The petitioner is the defendant in the original suit. The original suit was filed by the petitioners/plaintiffs seeking relief for partition of the plaint schedule of properties. In it, the petitioner/1st defendant appeared and filed a written statement. The suit property was belonged to the petitioner and the plaintiffs based on the Will No. 33/2001 dated 23.08.2021 written by Late.Subramania Thevar. The Plaintiffs are aware to the Will. The original of the will is in the possession of the 1st respondent/1st plaintiff. The petitioner has mentioned in the written statement filed that the original of the will is in the possession of the 1st respondent/1st plaintiff. No additional pleadings were filed by the 1st to 4th respondents/plaintiffs denying this. The authenticity of the Will will be clear only if the Will is filed in the court. In the Written statement filed by the petitioner, she has claimed on the basis of the Will document No.33/2001 dated 23.08.2001 written by Late.Subramania Thevar.

Therefore, the plaintiffs filed a memo requesting that the examination of the evidence of the case should be started first by the defendants and it was allowed. On the basis of the petition being allowed, the petitioner has filed an I.A.No. 09/2025 seeking an order to produce the Will Document No. 33/2001 dated 23.08.2001 in the court before the examination of the petitioner's evidence, stating that the petitioner will be able to give clear evidence regarding it and its authenticity if the 1st respondent/1st plaintiff files it in the court before the examination of the petitioner's evidence. The defendant/plaintiffs have filed a reply stating that they do not have the original will in their possession. On 25.02.2025, the petitioner was examined as P.W.1 and on 24.03.2025, the respondent/plaintiffs were cross-examined and the petitioner was given the opportunity to present additional evidence.

The petitioner has to investigate the details of the witnesses who signed the Will dated 23.08.2001 as additional evidence. However, since the original of the Will dated 23.08.2001 has not been filed in the court, if the said original Will and the copies of the register maintained in the office of the Joint Registrar who registered the Will are submitted to the court, the authenticity of the said Will and the details of the witnesses can be clearly explained. The files containing the duplicate copy of the original will and the records in which the document was registered are maintained in the Office of the Joint Registrar No. 2, Virudhunagar, Book 3, Volume 63, Pages 23 to 35, Document No. 33/2001. Only after the documents containing the Will and its files, Document No. 33/2001, have been handed over to the court, can the witnesses be examined regarding the details of the witnesses who signed the said Will. Before examining additional witnesses on behalf of the petitioner/1st respondent, the files containing the Will (Document No. 33/2001) registered on 23.08.2001 at the Office of the Joint Registrar No.2, Virudhunagar should be handed over to the court. Therefore, the petition has been filed by the petitioner.

**3) The averments of counter affidavit filed by 1 to 4 Respondents/Plaintiffs in brief are as follows :**

1<sup>st</sup> respondent is 1st plaintiff in the original suit. She well aware of the details of the facts of the case and she filing this counter-affidavit along with 2 to 4 respondents/2 to 4 plaintiffs. The plaint is not legally valid. The plaint was not filed in accordance with the relevant laws and no application was filed seeking court permission before requesting the production of the document in the possession of the government. Moreover, the certified copy of the Will sought by him has already been filed by his side as Ex.B1. Further, in the petition filed by the petitioner/1st defendant, it is falsely stated in paragraph 5 that the petitioner's I.A.No.9/2025 has been allowed by the court. In fact, in I.A.No.9/2025, on the side respondents has filed an objection stating that the original of the Will referred to by the petitioner does not exist and on that basis the petition has been closed. But the petitioner has ignored the above fact and has stated that the petition has been allowed. Therefore, it is prayed that the court may have record the above objection on behalf of the 1st to 4th respondents/plaintiffs.

**4. Point for consideration:**

Whether this petition is to be allowed or not?

**5. Points :**

- i. Heard both side. Petition affidavit and counter affidavit filed by the parties and available records were perused.
- ii. For the sake of convenience the parties are arrayed as per their ranking in the suit.

It is the case of the 1<sup>st</sup> defendant that the plaintiffs were filed the above suit for partition in with the 1<sup>st</sup> defendant filed her written statement. Further she submits that the suit schedule properties were belonged to herself and plaintiff in way of Will executed by Late.Subramaniya Devar vide document no.33/2001 dated 23.08.2001.

The above original Will under the hands of plaintiffs only but they refused to produce the same before this court. If the original Will not produced before this court the truth will not come out. Therefore the contention of the 1<sup>st</sup> defendant that for allowing this application is necessary to the facts and circumstances of the case.

On contrary to the above said submissions the contention of the plaintiff that the certified copy of the alleged Will is marked as Ex.B1 before this court and Joint Sub Registrar No.II, Virudhunagar is also already added as D17 in the main suit. Moreover I.A.No.09/2025 also closed by this court and not allowed as alleged by the 1<sup>st</sup> defendant. Hence there is no merit in this application.

**Before going to the merit of this application it is useful to extract the law namely Rule 76 of CRP hereunder:**

*Rule 76 of the Civil Rules of Practice (CRP) generally pertains to the address for service of a party in a legal proceeding. Specifically, it outlines the requirements for providing an address where legal documents can be served on a party*

By considering the overall facts and the circumstances of this case this court finds that already the certified copy of the alleged Will dated 23.08.2001 submitted by the 1<sup>st</sup> defendant. Therefore, once the certified copy of the registered document produced by the 1<sup>st</sup> defendant vide Ex.B1 there is no necessity to call for the concern Joint Sub Registrar, Virudhunagar to produce the same before this court. Moreover without preferred a revision against order passed in I.A.No.09/2025 this petition is not maintainable. The 1<sup>st</sup> defendant filed this application before this court as devoid of merits. Therefore this court is of the considered opinion that without challenging the order passed in I.A.No.09/2025 this present application is not maintainable before the eye of law. Once the certified copy of the registered document obtained from the Registration authority then there is no necessity to call for the same document from

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Additional District Court  
Virudhunagar

the concern Registration authority. Hence there is no merits in this application the same is dismissed as devoid of merits.

In the result, This petition is dismissed without cost.

Dictated to the steno-typist, directly typed by her in the computer, corrected and pronounced by me in open court, on this the 26<sup>th</sup> day of August, 2025.

Additional District Judge,  
Virudhunagar.

Witness and Exhibits on the side of the Petitioner: Nil.

Witness and Exhibits on the side of the Respondents: Nil.

Additional District Judge,  
Virudhunagar.