

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUVANNAMALAI.

PRESENT : Thiru.**P. Mathusuthanan**, B.A., B.L.,
Principal District Judge,
Tiruvannamalai

Thursday, the 18th day of September- 2025

I.A.No.5/2025 in O.S.No.235/2022

1.The commissioner, Hindu Religious Charitable Endowments Department , Nungambakkam, Chennai, 2. The joint Commissioner (Enquiry) Hindu Religious Charitable Endowments Department , Nungambakkam, Chennai, 3. The Assistant Commissioner, Hindu Religious Charitable Endowment Department ,Tiruvannamalai. 4. Arulmigu Arunachaleswarar Temple Rep.by Joint Commissioner/Executive Officer, Tiruvannamalai.		.. Petitioners/ 1 to 4 defendants
	Vs	
1. Abdul Samath, 2. Shahitha Banu 3. Arulmigu Amutheeswarar Temple, Nochimalai village, Tiruvannamalai.		..Respondents/plaintiffs .. Respondent/5th defendant

This Interlocutory Application has coming up before me for final hearing on 03.09.2025 and upon hearing the arguments of **Tr. G.Pugazhenth**i Learned Advocate appearing for the Petitioners and **Tr. C.Suraj** Learned Advocate appearing for the 1st and 2nd Respondents and

upon perusing the available records and having stood over for consideration till this day, this court passed the following...

ORDER

The petitioner/ plaintiff filed this petition under Order 8 Rule 1 of CPC to receive additional documents on the side of defendants.

2) Brief averments in the petition are as follows:

The petitioners are the 1 to 4th defendants in the suit. The petition mentioned documents are essential document to prove their case. Hence, this court may please to pass an order for receive petition mentioned documents as additional documents on the side of defendants. Hence this petition.

3) Brief averments in the counter filed by the 1st and 2nd respondents are as follows:-

The Respondents are plaintiffs. The parties are referred as per their rank in the suit for sake of convenience.

At the outset, the Plaintiffs respectfully submit that the present application filed by the Defendants No 1 to 4 seeking to reopen their evidence and recall DW-1 for marking an additional document is wholly devoid of merit, is legally impermissible, and constitutes an abuse of the process of this Hon'ble Court.

It is submitted that the suit is at an advanced stage. The Defendant Nos 1-4 side's evidence, i.e. DW-1, by the Plaintiff was cross examined on 05.06.2025. Thereafter, without any proper justification or legal cause, the Defendants now seek to introduce a new document, i.e. an alleged copy of an "Inam Fair Register-with the sole intent to cure the lacunae that emerged during trial and cross-examination.

It is well settled that once trial has commenced and evidence has been recorded, additional documents cannot be permitted to be filed except upon showing sufficient cause and subject to satisfaction of strict legal standards.

The Defendants have failed to show any such sufficient cause for not filing the said document earlier. The Defendants have not explained.

- a) Why the said document was not produced at the time of filing their written statement or when filing their proof affidavit:
- b) How and when the said document came into their possession;
- c) From where and in what manner the said document was obtained:
- d) Why the document, if truly relevant, was not part of the pleadings or originally filed documents.

The Plaintiff further challenges the veracity, genuineness and admissibility of the said document. It is unclear whether the document is a true extract or a manipulated reproduction. Even assuming it is a revenue record, the same cannot be accepted unless it is produced through proper revenue officials,

in accordance with law. The Defendants have not taken any steps to summon such authority nor filed any petition to that effect. The document now sought to be introduced is neither pleaded nor referred to in the written statement. It is trite law that a party cannot be allowed to improve its case by introducing fresh evidence outside its pleadings, especially at such a belated stage. Permitting such a course would cause prejudice to the Plaintiff and derail the trial.

The attempt to recall DW-1 and mark the new document is a classic afterthought. It is a tactic to fill in material gaps in the evidence of the Defendants, which is impermissible under law. It is a settled position of law that the power to recall a witness cannot be used to patch up weak parts of the case or fill up omissions. The Defendant Nos 1 to 4 have not made out any exceptional circumstance or procedural irregularity which would warrant reopening of their evidence. The Defendants had full opportunity to produce their documents and adduce evidence, which they failed to do. They must now bear the consequence of their procedural default.

Allowing the present application would not only delay the progress of the trial but would also set a dangerous precedent where parties could withhold documents and later attempt to introduce them as an afterthought. Such practices must be firmly discouraged in the interest of justice. The present application is, therefore, not bonafide and has been filed solely with the motive of derailing the trial and protracting proceedings. The Plaintiffs have requested to dismiss the

petition with costs.

4) Point that arises for consideration in this Petition is that

Whether this petition is to be allowed as sought for?

5) Point: The learned Government pleader appearing for the petitioners/defendants would contend that the 1 & 2 respondents herein has filed the suit seeking the relief of declaration of title as against the petitioners/defendants herein. He would further submit that the originally the property in question was given to one Amirtha Ganasa Gurukkal under Employee Enam (ஊழியர் இனம்) which is not conveyable/alienable as per Rule prescribed in Employee Enam. However, the said Amirtha Ganasa Gurukkal had alienated the property to one Mottaiaammal by violating the prescribed Rule. From that Mottaiaammal, the plaintiff herein has purchased the property has now come forward with this suit. He would further submit that on the side of the defendant, DW.1 was already examined and the matter was posted for further evidence of DW.1. At the time of examination of DW.1 the documents proposed to be marked herein was not available at the hands of the defendants, only steps made by them, they secured the documents proposed to be marked. In order to prove their defence, the documents herein is very essential to prove the defence of the defendant. And he would further submit that in the event of marking the documents no prejudice would be caused to the 1 & 2 respondents/plaintiffs and

they have an every opportunity to test the veracity of the documents by cross-examining the DW1, hence, he argued for allowing the petition.

6) **Per contra**, the learned counsel appearing for the 1st and 2nd respondents would contend that the petitioners/defendants cannot be allowed to prove their case by fresh evidence at the belated stage as it would cause prejudice to the case of the plaintiffs. And he would further contend that only with intend to drag on the proceedings and fill up the lacuna, the petitioners herein has come forward with this present petition to mark the documents, hence, he vehemently opposed to allow this petition.

7) Heard. Perused the records.

8) The specific contention of the 1st and 2nd respondents that the petitioners have not pleaded the relevant details of the documents sought to be marked on their side in original pleadings. But the learned counsel appearing for the petitioners would contend that he has already pleaded the same in para 4 of the written statement. I also perused the para 4 of written statement wherein the petitioner herein specifically mentioned the service Manyam given to Amirtha Ganesa Gurukkal, hence the question of not pleading the relevant details of the document sought to be marked on the side of the petitioners herein in the pleadings does not arise. And further contention of the 1st and 2nd respondents that only with intend to drag on the proceedings and fill up the lacuna he has come forward with this application also cannot be accepted as the

petitioners herein has clearly pleaded with regard to existency of said service Manyam and which was big conveyed to one Amirtha Ganasa Gurukkal, hence the contention of the counsel appearing for the 1st and 2nd respondents is deserves to be rejected.

9) Apart from this, in the event of marking the document the 1st and 2nd respondents herein will have every opportunity to cross-examining the witness and testing the veracity of the documents sought to be marked on the side of the petitioner. Hence the question of prejudice would be caused to the 1st and 2nd respondents in the event of marking the documents as alleged by the later also does not arise. Hence, this court does not find any force and substance in the submission of the learned counsel appearing for the 1st and 2nd respondents, on the other hand, this court feels appropriate to ensure the fair opportunity be given to the petitioners by permitting the petitioners to mark the proposed documents on their side. Hence, having considered the facts and circumstances of this case, this court is inclined to allow this petition and thus the point is answered accordingly.

Infine, the petition is allowed. No cost.

This Order is dictated by me to the Stenographer Grade-I of this Court, transcribed by her in Computer, corrected and pronounced by me in open court, this the 18th day of September- 2025.

**Principal District Judge,
Tiruvannamalai.**

ORDER

I.A.No.05/2025 in

O.S.No.235/2022

Dated : 18.09.2025