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C.R.P.(PD) No.1239 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2026

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THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.(PD) No. 1239 of 2026

Mr.Joshua Zabdail David

..Petitioner

Vs.

1.Mr.Isaac David

2.Mr.Emmanuel David

..Respondents

Prayer:

This Civil Revision Petition has been filed under Article 227 of the Constitution of India praying to issue appropriate direction to the District Munsif Court at Chengalpattu in O.S.S.R.No.11 of 2025 to number the plaint and take the suit on file.

For Petitioner : Mr.Rahul Jagannthan

ORDER

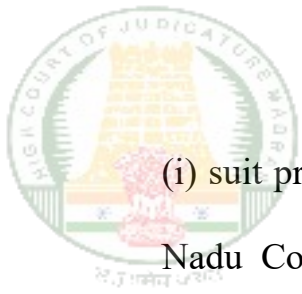
This Civil Revision Petition has been filed by the Petitioner praying to issue appropriate direction to the District Munsif Court, Chengalpattu to number the plaint in O.S.S.R.No.11 of 2025 and take the suit on file.



2. The brief facts of the case are as follows:

The Petitioner is working and residing in the United States of America.

When the Petitioner's brother Mr.Samuel David was alive, he had bequeathed his properties situated at Katpadi and Urapakkam in favour of Petitioner vide Will dated 27.04.2018. The said Will was executed in the United States of America. The Petitioner's brother Mr.Samuel David had died on 01.05.2018. After the demise of Petitioner's brother Late Mr.Samuel David, the Petitioner had approached a notary public in the State of New Jersey, USA and obtained an "Apostille". Since the properties mentioned in the said Will are outside the jurisdiction of USA and within the jurisdiction of District Munsif Court, Chengalpattu, the Petitioner had approached the Consul from the Consulate General of India and obtained their seal and signature to fortify the said Will and Apostille. When the Petitioner had attempted to alienate the properties (properties which were bequeathed by Late Mr.Samuel David in favour of Petitioner) in favour of a 3rd party, the 3rd party refused to purchase the same by stating the reason that the Petitioner has to establish his title over the said properties before a Court of competent jurisdiction. Hence, the Petitioner has filed the suit in O.S.SR.No.11 of 2025 before the District Munsif Court, Chengalpattu for the relief of declaration. However, at the scrutiny stage, the Trial Court had returned the plaint in O.S.S.R.No.11 of 2025 for the reasons such as



(i) suit property valued as per suit prayer under Sections 25(a)/(b) of the Tamil Nadu Court Fees and Suits Valuation Act, 1995 (hereinafter referred to as “1995 Act”)

(ii) Legal Heir Certificate of Mr.David Christodoss to be filed.

(iii) Correct Court Fee Section to be noted.

(iv) Notary Public to be attested in each and every page of the Complaint.

(v) Certified Copy of Documents Nos.1 to 11 to be filed.

3. The learned counsel for the Petitioner submitted that the Petitioner has filed a suit for declaration based on the testamentary succession on the strength of a duly apostilled and consular attested Will executed in the United States of America by the Petitioner’s brother, Late Mr.Samuel David.

3.1. It is further submitted by the learned counsel for Petitioner that the suit in O.S.SR.No.11 of 2025 squarely falls under Section 25(d) of the 1995 Act which applies to the suits for declaration without consequential relief, but, the Trial Court has misconstrued that the suit has been filed for the relief of possession and it has directed the Petitioner to pay the Court fee under Sections 25(a)/(b) of the 1995 Act.

3.2. The learned counsel for Petitioner also submitted that the Registry of the Trial Court has exceeded its administrative scope by directing the Plaintiff



to produce the original or notarized certified copies of the documents along with the plaint at the stage of filing of the suit.

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4. Heard the arguments of the learned counsel for Petitioner.

5. From a perusal of the materials available on record, it is evident that the suit does not fall under the scope and ambit of Sections 25(a)/(b) of the 1995 Act and thus, Petitioner need not pay the Court fee under Sections 25(a)/(b) of the 1995 Act. It is also evident that the subject Will is a foreign document which was duly apostilled and attested by the Consular. Hence, the attestation of Notary Public in each and every page of the plaint is not necessary. So far as the direction issued by the Registry of Trial Court for production of certified copies of the documents is concerned, as rightly pointed out by the learned counsel for Petitioner, the Registry of the Trial Court cannot demand the Petitioner to produce the original or notarized certified copies of the documents along with the plaint at the stage of filing of the suit as the same is relevant only at the stage of marking the evidence.

6. In view of the submissions made by the learned counsel for Petitioner, I am of the opinion that the reasons stated by the District Munsif Court, Chengalpattu for returning the plaint in O.S.S.R.No.11 of 2025 are unsustainable and invalid. Therefore, this Court directs the District Munsif



Court, Chengalpattu to number the suit in O.S.S.R.No.11 of 2025, within a period of one week from the date of receipt of a copy of this order. Registry is directed to return the original plaint, within a week.

7. This Civil Revision Petition is disposed of with the above direction.

No costs.

12-03-2026

mrr

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

District Munsif Court,
Chengalpattu.



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T.V.THAMILSELVI, J.

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