

**IN THE COURT OF DISTRICT MUNSIF UTHANGARAI  
KRISHNAGIRI DISTRICT**

**Present : Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.  
District Munsif, Uthangarai**

On this Tuesday the 21st day of January 2025

**I.A.No. 14 of 2024 and I.A.No. 15 of 2024 in O.S.No. 393 of 1995**

TNKI13-000001-1995

Puttiyammal @ Parvathi ...Petitioner in I.A.No. 14 of 2024 / 1<sup>st</sup> Defendant  
/versus/  
1. Sivan ...1<sup>st</sup> Respondent in I.A.No. 14 of 2024 / Plaintiff  
2. VEDIYAMMAL ...2<sup>nd</sup> Respondent in I.A.No. 14 of 2024 / 8<sup>th</sup> Defendant

1. Lakshmi  
2. Indhira ...Petitioners in I.A.No. 15 of 2024/ Defendants 2, 3  
/versus/  
1. Sivan ...1<sup>st</sup> Respondent in I.A.No. 15 of 2024 / Plaintiff  
2. VEDIYAMMAL ...2<sup>nd</sup> Respondent in I.A.No. 15 of 2024 / 8<sup>th</sup> Defendant

These interlocutory applications came up before this Court on 20.01.2025 for final hearing in the presence of advocate Thiru. N. Devendiran, the learned counsel for the petitioner in I.A.No. 14 of 2024 and advocate Thiru. K. Murugan, the learned counsel for the petitioners in I.A.No. 15 of 2024 and advocate Thiru. A. Saravanan, the learned counsel for the 1<sup>st</sup> respondent and advocate Thiru. S. Moorthi, the learned counsel for the 2<sup>nd</sup> respondent in both applications and upon hearing both sides and on perusal of records and having stood over for consideration till date, this Court delivers the following:



**COMMON ORDER**

The application in I.A.No. 14 of 2024 has been filed under Order XVIII Rule 17 of the Code of Civil Procedure, 1908 for re-calling the 8<sup>th</sup> defendant for cross-examination by the petitioner.

The application in I.A.No. 15 of 2024 has been filed under Order XVIII Rule 17 of the Code of Civil Procedure, 1908 for re-calling the 8<sup>th</sup> defendant for cross-examination by the petitioner.

***The averments of the petitioner in brief in I.A.No. 14 of 2024:***

1. The petitioner herein is the 1<sup>st</sup> defendant in the suit and avers that the 8<sup>th</sup> defendant filed additional proof affidavit and let in defendant side evidence and has denied the rights of the petitioner and their mother and has also filed documents as against the case of the petitioner. Hence, the petitioner avers that it is necessary for the petitioner to cross-examine the 8<sup>th</sup> defendant who has been examined as DW4 by the petitioner to elucidate real facts. Hence, the petitioner prays for allowing this application and to re-call the 8<sup>th</sup> defendant for cross-examination by the petitioner.

***The averments of the petitioners in brief in I.A.No. 15 of 2024:***

2. The petitioners herein are the 2<sup>nd</sup> & 3<sup>rd</sup> defendants in the suit and aver that the 8<sup>th</sup> defendant filed additional proof affidavit and let in defendant side evidence and has denied the rights of the petitioners and their mother and has also filed documents as against the case of the petitioners. Hence, the petitioners aver that it is necessary for the petitioners to cross-examine the 8<sup>th</sup> defendant who has been examined as DW4 by the petitioners to elucidate real facts. Hence, the petitioners pray for allowing this application and to re-call the 8<sup>th</sup> defendant for cross-examination by the petitioners.



***The averments of the 2<sup>nd</sup> respondent in brief in both applications:***

3. The respondent admits that the 1<sup>st</sup> defendant is the petitioner in I.A.No. 14 of 2024 and the 2<sup>nd</sup> and 3<sup>rd</sup> defendants are the petitioners in I.A.No. 15 of 2024 and deny the rest of the averments in toto in both applications. The respondent avers that the petitioners have filed these applications only to prolong the proceedings and delay the conclusion of the suit by knowing that they would not succeed. The respondent avers that the petitioners have been acting with *malafide* intention to prevent this respondent from obtaining any relief and avers that this respondent / DW4 was cross-examined on 12.11.2024 and these applications are liable to be dismissed and seeks for dismissal of the applications.

***No counter by the 1<sup>st</sup> respondent in both applications:***

4. The learned counsel for the 1<sup>st</sup> respondent appeared and endorsed no counter on behalf of the 1<sup>st</sup> respondent / plaintiff in both applications.

***Point for consideration:***

5. Whether these applications are liable to be allowed?

***Evidence:***

6. Neither of the parties to these applications have adduced any oral or documentary evidence.

***Discussion:***

7. This Court, having considered the arguments advanced on both sides and thoroughly examined the pertinent case records, proceeds to delineate its findings by the following discussion. The petitioner in I.A.No. 14 of 2024 is the 1<sup>st</sup> defendant and the petitioners in I.A.No. 15 of 2024 are the 2<sup>nd</sup> and 3<sup>rd</sup> defendants in the suit instituted by the 1<sup>st</sup> respondent / plaintiff in both applications for the reliefs of



partition and injunction. A perusal of the case records would show that the 2<sup>nd</sup> respondent / 8<sup>th</sup> defendant has been examined as DW4 on 29.11.2011, and has been subsequently, cross-examined by the plaintiff and defendants 1 to 3. The 8<sup>th</sup> defendant had filed application in I.A.No. 10 of 2024 which was allowed and has filed additional proof affidavit for examination-in-chief and has marked Exhibits B34 to B39 and has been subsequently cross-examined by the plaintiff on 29.10.2024 and 14.11.2024. It is the case of the petitioners in both applications that the 2<sup>nd</sup> respondent / 8<sup>th</sup> defendant have let in oral and documentary evidence as against the rights of the petitioners and seeks for cross-examination of DW4. A perusal of the records would show that the petitioners were already permitted to cross-examine DW4 and the plaintiff and the defendants 1 to 3 have already cross-examined DW4 touching upon the evidence let in. Since the petitioners have pleaded that the evidence of DW4 is against the rights and interest of the petitioners, this Court is of considered view that the petitioners have to be afforded an opportunity to cross-examine DW4 touching upon the additional oral and documentary evidence let in by the DW4. However, this suit has been pending since 1995 and these applications have been filed at the verge of conclusion of the trial, and hence, this Court deems it fit to impose stringent conditions to prevent further delay in the proceedings.

***Result:***

***8. As a result, these applications are allowed on conditions as follows:***

- (1) DW4 is directed to appear on 28.01.2025 without fail.***
- (2) The petitioners shall cross-examine DW4 in full her appearance without fail. Failure to comply with the condition shall invite dismissal of the applications.***



This order was dictated to the steno-typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 21st day of January 2025.

Sd/-  
Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.

District Munsif  
Uthangarai

**Annexure**

**Petitioner side evidence**

Petitioner side Witnesses: Nil

Petitioner side Exhibits: Nil

**Respondent side evidence**

Respondent side Witnesses: Nil

Respondent side Exhibits: Nil

**Court Documents:** Nil

Sd/-  
Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.

District Munsif  
Uthangarai