

**IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,  
NAGERCOIL.**

**Present : Selvi. V. Sivaranjani, B.A., L.L.B.,**

II Additional District Munsif, Nagercoil

Tuesday, on the 27<sup>th</sup> day of January, 2026

**I.A. No.7 of 2025 & 8 of 2025 in**

**O.S.No.250 of 2015**

**CNR No.TNKK04-000405-2015**

S. Sheeja ... Petitioner / 3<sup>rd</sup> Plaintiff

-vs-

1. The Joint Commissioner,  
Hindu Religious and Charitable Endowment,  
(Administrative Department) Palayamkottai,  
Tirunelveli.
2. The Executive Officer,  
Arulmigu Subramonia Swamy Thirucoil,  
Tiruchendur and Post..
3. The Commissioner,  
Nagercoil Municipality,  
Nagercoil. ... Respondents / Defendants

This petition came before this court on 22.01.2026 for a final hearing in the presence of Mr. L. Rajathurai Advocate for the Petitioner / 3<sup>rd</sup> Plaintiff, and in the presence of Mr. R. Arumugaperumal Advocate for the 2<sup>nd</sup> respondent and in the presence of Mr. A. Samuel Edwin Advocate for the 3<sup>rd</sup> respondent, endorsed "No counter" in this petition and and in the presence of C. Johnson,

Government Pleader for the 1<sup>st</sup> respondent, endorsed “No counter” in this petition and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

**COMMON ORDER**

**I.A.No.7/2025 Prayer**

The petitioner has filed the above petition under Section 151 of the Code of Civil Procedure, seeking to reopen the case to cross examine the DW1.

**I.A.No.8/2025 Prayer**

The petitioner has filed the above petition under Order XVIII Rule 17 and Section 151 of the Code of Civil Procedure, seeking to recall DW1 for cross examination.

2) **Gist of Averments in the Petitioner's Petitions:**

The Petitioner is the 3<sup>rd</sup> Plaintiff in this suit. The Plaintiff have filed this suit for injunction and for other reliefs. The petitioner submit that petitioner's father the 1<sup>st</sup> plaintiff herein died on 23.07.2022. The petitioner that petitioner's father died leaving petitioner and petitioner's mother Amutha as his legal heirs. The petitioner submit that petitioner's mother Amutha also died and petitioner is recorded as her legal heirs. The case was posted on 06.09.2024 for cross examination of DW1. The petitioner that since petitioner's advocate was

engaged in District Court, he was not able to cross examine the witness hence this court has closed the evidence of DW1. The petitioner that petitioner was having a strong case and it is highly necessary to reopen the case to cross examination DW1 to recall DW1 for cross examination, if not so much prejudice will be caused to petitioner. While preparing for argument we noticed that petitioner have not cross examined the DW1. Hence, these petitions are to be allowed.

3) **Gist of Averments in the 2<sup>nd</sup> Respondent's Counters:**

The 2<sup>nd</sup> respondent was working as Executive Officer Grade I, Tamil Nadu Hindu Religious and Charitable Endowment Department. The petitioner was conducting the cases on behalf of the Temple Management, Executive Officer and Thakkar, Sri Subramoniaswamy Temple and its endowment Parvathipuram. Udamoottu Dharmam. As such, 2<sup>nd</sup> respondent was fully acquainted with the facts of the case through files and swear this affidavit.

4. It is submitted that, the deceased 1<sup>st</sup> plaintiff G. Soman and his wife deceased Amutha the 2<sup>nd</sup> plaintiff has filed the suit for injunction simplicitor and the trail was duly commenced on completing the pleadings and framing of issues. On the side of the plaintiff's 2<sup>nd</sup> plaintiff Amutha has been examined as PW1 and her evidence was completed after that, closing of the plaintiff side evidence 2<sup>nd</sup> respondent have been examined as DW1 on 21.03.2024, and

despite of sufficient time given to the petitioner/plaintiff miserably failed to cross examine petitioner and this court closed the DW1 and several proceedings were proceeded on the side of the petitioner/plaintiff. The petitioner/plaintiff has not taken any steps to examine 2<sup>nd</sup> respondent and also filed an interlocutory application, I.A.No.6 of 2025 for amending the name of the petitioner/plaintiff and on the side of the respondent/defendant no objection. The petition was allowed and consequently the amendment also carried out. Finally, the case stood posted for arguments on 11.06.2025 and at request on the side of the petitioner/plaintiff on eleven postings the court adjourned the matter for arguments. On, 21.07.2025 also adjourned the case on the request made by the petitioner/plaintiff and this court posted the case for argument on 23.07.2025 then only the petitioner/plaintiff has come forward with the present interlocutory application I.A.No.7 of 2025 to reopen the case to cross examine DW1 and recall the DW1 for the purpose of cross examination.

5. It is very strange to note that the reason adduced in the petition that while preparing the argument it was noticed that the DW1 was not cross examined on the side of DW1 and the same was not at all an acceptable one. It is submitted that, the petitioner/plaintiff shall vigilant in proceed the case and non-cross examination of DW1 even after several adjournments will show that the plaintiff with a view to prolong the adjudication in this matter. The present move of the petition to recall and reopen the case for the purpose of cross

examination as DW1 is nothing but, delaying tactics. The present petition is lack of bonafide and good faith, the petitioner/plaintiff has not come forward with clean hands and hence, these petitions are liable to be dismissed at threshold. Hence, to accept the counters and dismissed these petitions.

- 6) The point for consideration is whether the above petitions have to be allowed or not?

7) Point:

Heard both sides. Records perused. These petitions filed by the petitioner / 3<sup>rd</sup> Plaintiff while the original case has been adjourned for Arguments. The petitioner stated that the case was posted on 06.09.2024 for cross examination of DW1. since petitioner's advocate was engaged in District Court, he was not able to cross examine the witness hence this court has closed the evidence of DW1 and it is highly necessary to reopen the case to cross examination DW1 to recall DW1 for cross examination, if not so much prejudice will be caused to petitioner.

8. The respondent raised serious contention that the reason adduced in the petition that while preparing the argument it was noticed that the DW1 was not cross examined on the side of DW1 and the same was not at all an acceptable one. The petitioner/plaintiff shall vigilant in proceed the case and non-cross examination of DW1 even after several adjournments will show that

the plaintiff with a view to prolong the adjudication in this matter. The present petition is lack of bonafide and good faith, the petitioner/plaintiff has not come forward with clean hands.

9) The reasons stated by the petitioner is only due to negligence and not pleasing. Also the petitioner failed to take proper recourse without unnecessary delay in filing these petitions. Despite that and the respondent's contention, this court is of the view that only to give the petitioner fair and sufficient opportunity to prove the case and in the interest of justice, this court consider to grant permission to the petitioner to reopen, recall to cross examine DW1. Hence, in the interest of justice, this court is inclined to allow these petitions on conditional cost.

As a result,

**I.A. No. 7 of 2025:**

This petition is allowed, on the condition that the petitioner shall pay a sum of Rs.750/- (Rupees Seven Hundred and Fifty only) payable to the DW1 on the date of hearing and allowed to cross examine DW1 on the same date failing which the petition would be automatically stands dismissed. Call on 02.02.2026.

**I.A. No. 8 of 2025:**

This petition is allowed, on the condition that the petitioner shall pay a sum of Rs.750/- (Rupees Seven Hundred and Fifty only) payable to the DW1 on the date of hearing and allowed to cross examine DW1 on the same date failing which the petition would be automatically stands dismissed. Call on 02.02.2026.

The Order directly dictated to steno-typist typed in computer, and after making necessary corrections, and pronounced by me in the open court, this the 27<sup>th</sup> day of January 2026.

II Additional District Munsif  
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

II Additional District Munsif  
Nagercoil.

Fair/ Draft common Order  
I.A.No.7, 8 of 2025  
in  
O.S.No. 250 of 2015  
Date: 27.01.2026.  
II ADM, Nagercoil.