

**IN THE COURT OF PRINCIPAL DISTRICT MUNSIF  
PADMANABHAPURAM.**

**Present: Thiru.R.Karthikeyan, B.A., B.L.,(Hons.)  
Principal District Munsif.**

**Wednesday, the 01<sup>st</sup> day of July 2026**

**I.A.No.16 /2026**

**in**

**O.S.No.302/2006**

1. Lawrence

.... Petitioner/Plaintiff

/ Vs /

1. Rajammal(Died)

2. The State of Tamil Nadu

Rep.by District Collector

3. The Tahsildar,Kalkulam

4. Selvaraj, Firkah Surveyor

5. Sudesan, Inspector of Police,

Thuckalay Police Station, Thuckalay.

(Added as per I.A.No.574/2009 dated 22.02.2010)

6. Addl. Suganthi (Died)

7. Addl. Leela

8. Addl.Eleci

9. Addl.Jones

10. Addl.Raji

11.Addl.Devi

12. Addl.Dhas

13.Addl.Deva Sujil

14.Addl.Subin

15. Addl.Misbha

16. Addl.Sujistha

17.Addl.Subramanian

Addl. Defendants 6 to 12 impleaded as per order in I.A.No.573/2009 dated 23.07.2010.

Addl.defendants 13 to 17 impleaded as per order in I.A.No.10/2023 dated 29.08.2024.

.. .Respondents/Defendants

This petition is coming before me for final hearing, in the presence of Mr. John Ignacious, learned counsel for the petitioner and Mr. J. Jeba John, Government pleader for the respondents D2 to D4 and Mr. Ganaga Rajan, Learned counsel for the respondent D5 and Mr. Sanil Kumar, Learned counsel for the respondent D8 to D10 and respondents D7, D11 to D17 called absent and set ex parte and respondents D1, D6 died. Upon hearing the both side counsel and on perusal of the records stood over for consideration till this day, this court passed the following :

### ORDER

This petition is filed under order 18 Rule 17 and Section 151 of the code of civil procedure to pass an order to recall the PW.1.

## **2. THE AVERMENTS IN THE PETITION IN BRIEF :-**

In this case the advocate commissioner filed report and plan on 06.03.2026 and petitioner have filed objection to the commissioner report and the case is posted on 18.06.2026 for arguments. The petitioner was examined as PW.1 and the plaintiff's side evidence was closed on 12.01.2023 and thereafter alone the advocate commissioner filed report and therefore unable to give evidence in respect of the Advocate Commissioner's report. The petitioner's father executed a sale deed in favour of his brother's wife Mrs. Meera Ramani Bai touching on

the South of the plaint schedule as per the sale deed No.169/1998 dated 29.01.1998 of Palliyadi Sub -Registrar office. In the sale deed very clearly reveals that there is 4 feet width pathway on the north of his property. The petitioner's father got the property as per the final decree passed in O.S.No.417/1969. In the final decree was allotted 18<sup>th</sup> plot in old Sy.No.2326 correlated to RE.Sy.No.448/4. In the north of the plot No.18 the plot No.17 is existing. Now, the advocate commissioner and the respondent claimed that the property set apart by his father was the pathway purchased by him. In order to clarify the same the petitioner have to give oral evidence and therefore P.W.1 to be recalled. The oral evidence and the document sought to be given is very vital to decide the issue before this court and the document sought to be produced to be marked through the PW.1. Hence, this petition.

**3. THE AVERMENTS IN THE COUNTER FILED BY RESPONDENTS R8 to R10 IN BRIEF:**

The 4 feet pathway stated in the sale deed executed by father of the petitioner is nothing to do with the report and plan of the commissioner. The commissioner has correctly located the suit property as per the application filed by the petitioner/plaintiff. The plan was prepared as per the memos given to him by both parties. The property was measured and plan was prepared by Assistant Director of Survey,

Kanyakumari District, as per the order of this court. The petitioner that the commissioner and the respondents claimed that the property set apart by his father was the pathway purchased by him is absolutely false and baseless. The sole aim of the petitioner is to drag on the case to the maximum and harass these respondents. The document now sought to be produced, is nothing to do with the suit properties as well as fact of this case. The oral evidence and the document sought to be produced is not at all necessary to decide this case. Hence, this petition is liable petition is dismissed.

**4. POINTS FOR DETERMINATION :-**

Whether the petitioner is entitled to the relief as prayed for or not?

**5. DISCUSSION AND ANALYSIS :-**

Heard both sides. Records perused.

i) Petitioner have filed this petition to recall and examine PW.1 on the ground that the sale deed executed by petitioner's father infavour of his brother's wife Mrs.Meera Ramani Bai touching on the South of the plaint schedule property as per the sale deed 169/1998 which clearly reveals that there is a 4 feet width pathway on the north of his property. The advocate commissioner and respondent claim that the property set apart by my father was the pathway purchased by this

petitioner and in order to clarify the above issue and give oral evidence recall of PW.1 is very much necessary and certain document need to be marked through PW.1 and prays to allow this petition. On the other hand respondents raised strong objection to allow this petition on the ground that the 4 feet pathway stated in the sale deed executed by petitioner's father is nothing to do with the report and plan of the commissioner. The commissioner have correctly located the suit property as per the application filed by the petitioner/plaintiff and plan was prepared as per the memo given by both parties. Moreover the property was measured with a assistance of the Assistant Director of survey, Kanyakumari District as per the order of this court. The only intention of the petitioner is to drag on the case and petitioner have filed this petition with false statement and prays to dismiss this petition. Based on the both sides rival submission it is very clear that petitioner seeks to recall and examine PW.1 to mark the sale deed executed infavour of petitioner's brother's wife to show the 4 feet width pathway stated in the sale deeds.

ii) However here in this case advocate commissioner was appointed and with assistance of the Assistant Director of Survey , Kanyakumari District. The property was measured and report was already filed. Moreover the suit was pending before this court from the year 2006 and suit is at the argument stage and petitioner have filed this petition to

receive the sale deed executed in the year 1998 was very much available in the hands of the petitioner/plaintiff from the time of filing of the suit. But, petitioner have willful neglected to adduce the above sale deed and once suit was posted for argument petitioner have filed this petition to receive the above sale deed in order to prove the 4 feet pathway. In this case enough opportunity was granted to both sides to adduce evidence and the evidence was closed and posted for argument and petitioner/plaintiff have filed with the petition with an intention to delay the trial proceedings. Moreover advocate commissioner report was filed to which objection was also filed on both sides and at this stage petitioner/plaintiff seeks to adduced to sale deed executed in the year 1998 without showing sufficient cause. Hence, considering the nature and circumstances of the petitioner and period of adjournments previously granted this court in the interest of justice inclined to dismiss this petition.

DECISION:

In the result, petition is dismissed. No costs.

Dictated to the steno-typist and typed by her in computer, corrected and pronounced by me in open court, on this 01<sup>st</sup> day of July 2026.

Principal District Munsif,  
Padmanabhapuram.

PDMC, Padmanabhapuram.

I.A. No.16/2026

O.S.No.302/2006

Order:

Dt: 01.07.2026





