

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF
AT KANCHEEPURAM

PRESENT: Tmt. Fanny Rajan, B.A., B.L.,(Hons)
Principal District Munsif, Kancheepuram

On Monday, the 27^h day of July 2026

I.A . No. 6 of 2025

and

I.A . No. 7 of 2025

in

O.S.No. 209 of 2019

CNR.No.TNKP08-000547-2019

P. Yuvarajan

.... Petitioner/Plaintiff

/Versus/

N. Kandaswamy

.... Respondent/Defendant

This Petition has come up on 07.07.2026 for final hearing before me in the presence of M/s.B. Karthikeyan, B.S.Ramesh, A.Mugundan, M.Priyanga, D.Vidhyasankar, R.Dinesh Kumar, Counsels for the Petitioner and M/s. P. Rajamanikkam, G.Bharani, C.Kaviyarasan Counsels for the Respondent, upon hearing the argument, perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

COMMON ORDER

1. **IA No.6 of 2025:** The petitioner filed this petition under Section 151 of CPC to reopen the case to Recall the PW1 to mark the Commissioner Report filed by the Learned Advocate Commissioner and permit him to mark the same as a Exhibit A series and thus render justice
2. **IA No.7 of 2025:** The petitioner filed this petition under Order XVIII Rule 17 to recall the PW1 to mark the Commissioner Report filed by the Learned Advocate Commissioner and permit him to mark the same as a Exhibit A series and thus render justice.

**Concise statement of the averments in the affidavit filed by the
Petitioner in IA No.6 and 7 of 2025:**

3. The petitioner has averred that the case was posted for DW1 Cross. A Petition to appoint an Advocate Commissioner was allowed and the Mrs.T.A.K.Revathy was appointed and filed her report on 25.02.2022. During his evidence due to ignorance, the Report was not filed. It is neither willful nor wanton and it is solely due to the above said reason. It is a valid document. Otherwise he would be put to irreparable loss and hardship. Hence, this petition to recall and reopen the PW1 evidence.

Concise statement of the averments in the counter affidavit filed by the Respondent in IA No.6 and 7 of 2025:

4. The respondent has stated that the petition is vexatious and unsustainable. This petition is filed to drag the proceedings. The Plaintiff evidence was taken up on 08.12.2022 and Ex.A1 to Ex.A4 were marked. It was posted for further marking of document on 21.12.2022, 10.01.2023, 06.02.2023, 24.02.2023, 05.04.2023, 18.04.2023, 21.06.2023, 28.06.2023, 20.07.2023. On 20.07.2023 Ex.A5 was marked and the PW1 chief closed.
5. On 06.03.2024 PW1 was cross examined in full and posted for further PWs on 12.03.2024, 12.04.2024. On 12.04.2024 Plaintiff's side evidence closed and posted for defendant side evidence. This defendant was examined and on 01.08.2025 cross examination was closed. When the case is posted for arguments on 02.09.2025, this petition is filed. The relief claimed is not maintainable in law and on facts. Hence, the petitions are liable to be dismissed.

POINT FOR CONSIDERATION:

6. **IA NO. 6 OF 2025:** Whether the petition to reopen Plaintiff evidence has to be allowed or not?

7. **I.A NO.7 OF 2025:** Whether the petition to recall the PW1 has to be allowed or not?

DISCUSSION AND FINDINGS:

8. This Court considers the submissions of the learned counsels for the Petitioner and respondent and perused the materials on record. No oral or documentary evidence has been let in by the Petitioner and Respondent.
9. On perusal of the records, it is found that the PW1 evidence in chief and cross were closed on 20.07.2023 and 06.03.2024 respectively. The Plaintiff evidence was closed on 12.04.2024. Thereafter, the Defendant evidence commenced and closed on 29.08.2025.
10. When the suit is posted for arguments, this petition to reopen and recall the PW1 evidence is filed to mark the advocate commissioner report as A series. The advocate commissioner was appointed in I.A.No.3 of 2019 and the report was filed on 17.03.2020. No objections appears to have been filed and the said I.A.No.3 of 2019 was closed on 25.02.2022.
11. This court considers the contention of the learned counsel for the Plaintiff that the report has to be marked through PW1. He relied on a judgment in CRP No.4107 of 2019 dated 20.01.2020 of the Hon'ble Madras High Court. The facts in the said judgment related to a different facts and circumstances

and direction was issued only to mark the advocate commissioner report and plan in another proceedings. Even in the said judgment, there is no ratio decidendi or obiter dicta that the advocate commissioner report and plan have to be marked as Plaintiff evidence and through Plaintiff witness. Hence, the said judgment is not assisting the petitioner's case to recall and reopen PW1 evidence to mark the advocate commissioner report.

12. This Court consider Order XXVI Rule 10(2) CPC, wherein it is clear that the advocate commissioner report shall form part of evidence and is a court record. The advocate commissioner report is a court document and there is no requirement to recall the PW1 to mark the said document. The same being a court record can be marked by this court at any point in time without the presence of any witness.
13. In respect of the contention regarding the marking of the report as A series, it is noted that the advocate commissioner report is a court record. Hence, it has to be marked as 'Ex.C' series as mandated under Rule 79 (1) (iii) of the Civil Rules of Practice. It is definitely a court exhibit and cannot be marked as A series on the side of the Plaintiff as contended by the Petitioner.
14. Further, the PW1 cannot be cross examined in respect of the said advocate commissioner report as it was not prepared by him. When the PW1 is not

the author of the report and when the report is a court document, this court can mark the same even today without recalling the PW1. Hence, this court finds that there is no reason to recall the PW1. Hence, this court concludes that there are no merits in this petitions for reopen and recall of PW1 for the purpose of marking advocate commissioner report. Resultantly, in the interest of justice, this court is inclined to dismiss the Petition.

15. Considering the nature of the petition, this court considers that the parties shall bear their own costs.

RESULT:

16. **I.A.No.6 of 2025:** In the result, this petition is dismissed. No costs.
17. **I.A.No.7 of 2025:** In the result, this petition is dismissed. No costs.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 27th day July 2026.

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM

Petitioner and Respondent side witness and document : NIL

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM