

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI

Present : Selvi.A.Yughathymariya, B.Com, L.L.B.(Hons.,)

Additional District Munsif, Kulithalai.

Dated Wednesday, the 28th day of January 2026

I.A No.04/2025 in O.S No.14/2022

P. Mathiyalagan

...Petitioner /Defendant

- Vs -

M/s. Sri Narayanadas Govindadas Family Trust Estate

represented by its Managing Trustee D.Narayana Das.

...Respondent/ Plaintiff

This petition has come up for final hearing on 19.01.2026 before this Court in the presence of Mr.S.Ramkumar, the Learned Counsel appearing for the Petitioner and no representation for the Respondent and upon perusal of material records and having stood over for consideration till this day, this court delivers the following:

ORDER

This petition is filed by the Petitioner/Defendant in the above suit U/s.151 of CPC seeking permission of this Court to reopen the chief examination of the Defendant side witness namely DW3, for marking of certain documents on the side of the Defendant.

Brief averments in the affidavit:

2) The Petitioner is the Defendant in the above suit. This petition is filed to recall the Defendant side witness namely DW3 for marking of documents on the side of the Defendant. The above suit was filed by the Plaintiff for the relief of damages and also to enhance the lease amount with respect to the suit property.

3) The above case was posted on 03.09.2025 for Defendant side further evidence and on that day, DW3 proof affidavit was filed and the documents mentioned in the proof affidavit of DW3 were omitted to be marked. After the same, the above suit was posted for cross of DW3. The document mentioned in the proof affidavit is vital to disprove the case of the Plaintiff and it will help more to establish the Defendant's case. Hence, it is necessary to reopen the chief examination of DW3 for marking of the documents mentioned in the proof affidavit on the side of the Defendant. There is no legal impediment for reopening the chief examination of DW3 for marking of documents. Unless this petition is allowed, the Petitioner will be put to great loss and hardships. Hence, this petition.

Brief averments in the counter objection filed on behalf of the Respondent:

4) This petition is unsustainable. The Petitioner is not entitled to the relief sought for. Except the facts which are expressly admitted by the Respondent herein, all other averments contained in the petition are expressly denied and the Petitioner is bound to prove the same. The documents which were filed on the side of Respondent/Defendant in the above suit are no way connected to the above suit. The documents which are alleged to be marked on the side of the Defendant as mentioned in the affidavit are no way connected to the above suit and hence, the above documents are not entitled to be admitted in evidence. This petition has been filed by the Petitioner with an intention only to drag on the above suit. Hence, this petition is liable to be dismissed.

Point for determination:

5) Whether the Petitioner is entitled to the relief sought for or not?

Evidence:

6) There is no oral and documentary evidence adduced on either side.

Discussion:

7) Heard. Records perused. Upon perusal of records, it could be seen that the above suit has been filed by the Plaintiff/Respondent herein against the Defendant/Petitioner herein seeking the relief of payment of rent by way of damages for use and occupation and also for enhancement of rent in respect of the suit property for the suit period. It could also be seen that in the above suit on the side of the Defendant, the Defendant side witness namely DW3 was chief examined in full and thereafter, the above suit has been posted for cross examination of DW3. It is also seen that no documents were marked through DW3 in the above suit on the side of the Defendant. Pending the cross examination of DW3, this petition to reopen the chief examination of DW3 was filed on the side of the Defendant for the purpose of marking certain documents.

8) The major contention that has been raised on the side of the Petitioner is that when the above suit was posted on 03.09.2025 for Defendant side further evidence, DW3 proof affidavit filed and the documents mentioned in the proof affidavit of DW3 were omitted to be marked and such document is vital to disprove the case of the Plaintiff and it will help more to establish the case of the Defendant in the above suit. Hence, the Petitioners sought this Court to reopen the chief examination of DW3 for the purpose of marking of documents on the side of the Defendant.

9) Per contra, the major objection that has been raised on behalf of the Respondent is that the documents as mentioned by the Petitioner are no way connected to the above suit and also the Respondent contended that this petition has been filed by the Petitioner only for the purpose of the dragging on the above suit and hence, the Respondent had sought this Court to dismiss this petition.

10) Upon careful consideration of the material records available on hand, it could be seen that as pointed out by the Petitioner, on 03.09.2025, the Defendant side

witness namely DW3 was examined in chief in full in the above suit and no documents were marked through out his chief examination. It could also be seen that in the proof affidavit filed by DW3, he had mentioned about certain rental receipts which are available in the name of DW3 in respect of the suit property and in his proof affidavit he has also stated that he is filing the said rental receipts before this Court. However, as alleged by the Petitioner no such receipts were marked through DW3 in his chief examination. Subsequently, when the chief examination was closed the above suit was posted for cross of DW3. Pending the same, not taken much time, this petition has been immediately filed on the side of the Defendant for reopening the chief examination of DW3 in order to mark certain documents in respect of the suit property as mentioned by DW3 in his proof affidavit.

11) Upon consideration of the above facts and circumstances of this case, this Court is of the considered view that in order to render complete and fair justice and to arrive at a final and binding adjudication between the parties, opportunities must be given to both the parties in order to prove their cases respectively through oral and documentary evidence available on their sides. Also, there is no specific objection made on the side of the Respondent for allowing this petition. The only contention that has been raised on the side of the Respondent herein is that the document which are alleged to be marked on the side of the Petitioner in the above suit are no way connected to the above suit. However, whether the document is admissible or not or whether such document is connected to the above suit or not, are all to be decided only after giving opportunities to the parties to prove the documentary evidence and only at the time of trial and the same cannot be decided by this Court in this Interim Application.

12) This Court is also of the view that if the Petitioner is not given opportunity to produce such document in the above suit, he will be greatly prejudiced than the Respondent herein. At the same time, this Court also ensures that the Respondent

will be having every opportunity to question and raise objection in respect of the documents which is proposed to be marked on the side of the Defendant in the above suit and to cross examine such witness in respect of the said document respectively to prove his case. Therefore, this Court is inclined to allow this petition.

Result:

With the above observations, this petition is allowed. No costs.

Dictated to my steno-typist, taken down by her in short hand and typed by her in the computer, corrected by me and pronounced by me in the open court on this the 28th day of January 2026.

**Additional District Munsif,
Kulithalai.**

Petitioner side witness and documents	-	Nil.
Respondent side witness and documents	-	Nil.

**Additional District Munsif,
Kulithalai.**