

**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 08<sup>th</sup> day of April 2026**

**I.A No.11/2026 in O.S No.226/2019**

A.Duraisamy

**...Petitioner/Plaintiff**

**- Vs -**

1) C.Thangavel

2) T.Rajammal

**...Respondents/Defendants**

This petition has come up for final hearing on 23.03.2026 before this Court in the presence of Mr.C.Selvakumar, the Learned Counsel appearing for the Petitioner and in the presence of Mr.V.R.Balasubramanian, the Learned Counsel appearing for the Respondents 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 under Order 16 Rule 1 r/w section 151 of CPC by the Petitioner/Plaintiff in the above suit seeking permission of this Court to issue summons to the Inspector of Police, Kulithalai Police Station, Kulithalai to examine him as witness on the side of the Petitioner in the above interim application.

**Brief averments in the affidavit:**

2) The Petitioner is the Plaintiff in the main suit. The above suit has been filed by the Petitioner for the relief of Declaration, Permanent Injunction, for costs and for other relieves as against the Respondents/Defendants. The

Petitioner had also filed an application in I.A.No.7/2024 for contempt of Court against the Respondents/Defendants. The said petition is posted for further evidence on 24.02.2026. When the Defendants had removed the survey stones and other unlawful acts which amounts to an act of contempt of Court, the Petitioner went to Kulithalai Police Station to give complaint. On that date, the Petitioner signed the register of visitors in the Police Station. But the police had not received the complaint of the Petitioner. To prove the above facts, the Petitioner has to examine the Inspector of Police, Kulithalai Police Station. Unless the said witness is examined on the side of the Petitioner, the Petitioner will be put to much hardships and loss. Hence, this petition to summon the witness.

**Brief averments in the counter filed by the Respondent No. 2 and adopted by the 1<sup>st</sup> Respondent:**

3) All the allegations in the affidavit are false and denied, except those are specifically admitted by the Respondents. This petition is legally not maintainable. The allegations that the Petitioner has filed a petition in I.A.No.7/2024 and that petition is posted for further evidence on the side of the Petitioner is true. The allegations that the Respondents had removed the survey stones and other unlawful acts and the Defendants had committed an act of contempt of Court are false and denied.

4) The allegations that the Petitioner went to Kulithalai Police Station to give complaint is false and denied. The allegations that the Petitioner had signed in the register of visitors to the Police Station is false and denied. The allegations that the Police had not received the complaint is false and denied. The allegations that the Inspector of Police, Kulithalai Police Station has to be examined as witness on the side of the Petitioner is false and denied. The allegations that permission has to be given for summoning and examining the

Inspector of Police is without any legal basis. The Petitioner knows that he does not have a valid case on merits. The Petitioner has filed this petition with an intention to delay and drag on the proceedings. Hence, this petition is liable to be dismissed with costs.

**Ponit for consideration:**

- 5) Whether this petition is entitled to be allowed or not?

**Evidence:**

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

**Discussion:**

7) Heard both sides. Perused records. Upon perusal of records, it is seen that the above suit is filed by the Petitioner/Plaintiff against the Respondents/Defendants for the relief of Permanent Injunction in respect of the suit property. This being so, in the above suit issues were framed by this Court and subsequently, the above suit was posted for trial. This being so, upon perusal of records, it is also seen that the Plaintiff/Petitioner had filed an interlocutory application in I.A.No.829/2019 under Order 39, Rule 1 for the relief of Temporary Injunction, pending the disposal of the suit against the Respondents/Defendants.

8) It is also seen that the above interlocutory application in I.A.No.829/2019 has been allowed by this Court on 05.01.2024 thereby granting an order of Temporary Injunction in favour of the Petitioner herein, thereby restraining the Respondents/Defendants from interfering with the construction of fence by the Petitioner over the suit property till the disposal of the main suit.

**9)** This being so, after the same, the Petitioner had filed an another interlocutory application in I.A.No. 7/2024 under Order 39, Rule 2(A) r/w Section 151 of CPC seeking for the relief of civil arrest of the Respondents/Defendants and to detain them in the Civil Jail for the act of contempt of Court who violated the order Temporary Injunction passed against them by this Court dated 05.01.2024 in I.A.No.829/2019. This being so, in the above petition, on the side of the Petitioners, the Petitioner was examined as PW1 and through him Ex.P1 and Ex.P2 were marked. Thereafter, PW1 was cross examined in full on the side of the Respondents. Subsequently, the above interlocutory application was posted for further evidence on the side of the Petitioners. Pending the same, this petition seeking the permission of this Court to summon the Inspector of Police, Kulithalai Police Station as the Petitioner side witness in the above interlocutory application and to examine him on the side of the Petitioner in the above petition.

**10)** The major contention that has been raised on the side of the Petitioner is that when the Defendants had removed the survey stones and done other unlawful acts which amount to an act of contempt of Court, the Petitioner had gone to the Kulithalai Police Station to give complaint against the Respondents. However, the Petitioner had contended that on that date, the Petitioner had signed in the register of visitors in the Kulithalai Police Station but the Police had not received any complaint from the Petitioner. Therefore, the Petitioner prayed this Court seeking permission to summon the Inspector of Police, Kulithalai Police Station to examine him as the Petitioner side witness in the above interlocutory application to prove the case of the Petitioner in the above petition. Per contra, the Respondents had denied all the allegations contained in the petition as false except the allegations that the Petitioner had

filed a petition in I.A.No.7/2024 and the above petition was post for further evidence on the side of the Petitioner.

**11)** This being so, upon careful consideration of the material available on record, this Court is of the considered view that this Court had already passed an order of Temporary Injunction in favour of the Petitioners in the above stated interlocutory application. However, the Petitioners had filed this petition for the act of contempt of Court by the Respondents herein who is alleged to have violated the order of this Court passed in the above interlocutory application in favour of the Petitioner. In order to prove the contempt of Court and other unlawful acts alleged to have been committed by the Respondents herein, the Petitioners sought the permission of this Court to examine the Inspector of Police, Kulithalai Police Station as the Petitioners side witness in the above interlacutory application for the purpose of proving the factum that the Petitioner had gone to the Kulithalai Police Station and had given complaint against the Respondent against the alleged act of contempt wherein the Police officials had refused to register the complaint.

**12)** Further, the Petitioner had contended that he had gone to the Kulithalai Police Station to register the complaint against the Respondents herein for the alleged act of contempt and on that day, the Petitioner had signed in the register of visitors available in the Kulithalai Police Station and in order to prove the above facts, the Petitioner had sought the permission of this Court to issue summons to the Inspector of Police, Kulithalai Police Station and to examine him as Petitioners side witness in the above interlocutory application.

**13)** This Court is of the considered view that the reasons stated by the Petitioner herein for allowing this petition to summon the Inspector of Police, Kulithalai Police Station and to examine him as the Petitioners side witness in the above interlocutory application is found to be acceptable and justifiable.

This Court is also of the view that in order to meet out the ends of justice and to give opportunities to the parties to prove their cases respectively, this petition is entitled to be allowed and the Petitioner has to be given opportunities to prove his case in the above application rather than allowing him to be defeated on such technical irregularities by denying him the prayer sought for in this petition. This apart, there is no specific objection made on the side of the Respondents rather they had simply denied the allegations levelled upon by the Petitioner in his affidavit. This Court also ensures that if this petition is allowed, the Respondents will be having every opportunity to cross examine the petition mentioned witness when he is summoned, which will bring out the real factum of truth before this Court. This Court also ensures that if this petition is allowed, it would no way prejudice the rights of the Respondents herein. Hence, this Court is inclined to allow this petition.

**Result:**

With the above observations, to meet out the ends of justice, this petition is allowed. The Inspector of Police, Kulithalai Police Station, Kulithalai is hereby summoned as the Petitioner side witness in the above interlocutory application. 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 08<sup>th</sup> day of April 2026.

**Additional District Munsif,  
Kulithalai.**

Petitioners side witness and documents - Nil.

Respondents side witness and documents - Nil.

**Additional District Munsif,  
Kulithalai.**