

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
MADURAI.**

**PRESENT : THIRU.M.SAISARAVANAN, M.L.,
Principal District Judge
Madurai.**

Wednesday, this the 19th day of August, 2026.

**I.A.No.2/2025 & I.A.No.3/2025
in
O.S.No.126/2019**

I.A.No.2/2025:-

1. Ganesh	
2. A. Venkat Annamalai	... Petitioners/Plaintiffs.
-Vs-	
Periyasamy Servai Chandran	... Respondent/Defendant.

I.A.No.3/2025:-

1. Ganesh	
2. A. Venkat Annamalai	... Petitioners/Plaintiffs.
-Vs-	
Periyasamy Servai Chandran	... Respondent/Defendant..

Both the petitions were coming before me for final hearing on 28.07.2026 in the presence of Thiru.S.M.Arun Kumaar, Learned Counsel for the Petitioners and Thiru.H.Arumugam, Learned Counsel for Respondent and upon hearing the arguments of both sides, perusal of all connected material records and having stood over for consideration till this date, this Court pass the following.....

COMMON ORDER**I.A.No.2/2025:-**

This petition is filed by the petitioner under Order 18 Rule 17 r/w Section 151 of Civil Procedure Code to recall the petitioner who was examined as P.W.1.

I.A.No.3/2025:-

This petition is filed by the petitioner under Order 7 Rule 14 and Section 151 of C.P.C. to receive the documents filed along with this application.

2. Averments of the petitions filed in both the petitions are one and the same it has been commonly as follows :-

The petitioner herein is the 1st plaintiff in the main suit and he filed this petition on behalf of 2nd petitioner also. The main suit was filed by the petitioner and on behalf of 2nd plaintiff seeking permanent injunction restraining the respondent from in anyway infringe the register trade mark namely "SMART HOME GRAND" and other reliefs. The 1st petitioner was examined as P.W.1 on 16.03.2020 and Ex.A.1 to Ex.A.26 were marked in his chief examination. When the matter was posted for cross examination, the respondent took several adjournments and filed an application in I.A.No.915/2020 under Order VII Rule 11. The said

application was dismissed by this Court on 12.01.2024. Even thereupon, the respondent preferred to abstain to cross examining the 1st petitioner. Later on 27.06.2024 the respondent filed an application to eschew Ex.A.1 to Ex.A.19 in I.A.No.1/2024 on the ground that the said exhibits are photo copies. To avert unnecessary delay, the 1st petitioner and the 2nd petitioner preferred to express their 'no objection' to the said application. However, it is necessary for substantiating their case to adduce evidences regarding registration of Trademarks. As such the documents that are filed along this application needs to be received by recalling the 1st petitioner in chief. The same is essential for proper and just analysis of the case. Unless such an order of receiving the said documents by recalling the 1st petitioner in chief is passed, the 1st petitioner and the 2nd petitioner would be put to great loss. Hence the petition may be allowed.

3. Brief contention of the counter filed by the respondent/defendant in common are as follows:

This petition is not maintainable either in law or on facts and liable to be dismissed. The respondent deny each and every one of allegations made in the petition except those that are specifically admitted herein and put the petitioners to the strict proof of rest of the averments. The

petitioners prayed for reception of documents for marking of documents which are web copies and a CD and recalling the P.W.1 for chief examination. The petitioners have not produced the original trademark certificate if any issued to them. They have also not at any point of time disclosed about the reasons as to why they are unable to produce the original trademark certificate if at all any issued to them. Admittedly the web copies are not equivalent to the original trademark certificate and hence it seems that the petitioners are trying to withhold the production of Original Trademark Certificate. Initially the petitioners filed only xerox copies of the alleged trademark certificate which was eschewed by this court. The petitioners did not have any counter to object the eschewal or did not disclose the availability or otherwise of the original trademark certificate. The allegations set out in the petition as if respondent has abstained to cross examine is misleading since the attempt by the petitioner/plaintiffs to get along the case by marking of xerox copies is totally unsustainable. Even in the present petition the petitioners are seeking to produce the web copies and not the original trademark certificate for the purpose of marking in evidence. The petitioners have not complied with provisions of the Trade Marks Act for the purpose of

adducement of evidence. Hence the petition to receive the documents as well as the petition to recall the P.W.1 for marking in evidence to not have any merit and hence the petition may be dismissed.

4. Point for Consideration:-

Whether P.W.1 has to be recalled and whether the documents filed along with this application are to be received?

5. POINT:-

These petitions are filed to recall the petitioner who was examined as P.W.1 and to receive the documents filed along with the petition in I.A.No.3/2025. The petitioners are the plaintiffs in the suit and the suit has been filed for permanent injunction restraining the defendant from in any way infringe the registered trademark of plaintiff by using, adopting or copying either individually or collectively and other reliefs as prayed in the plaint. The trial of the suit was commenced on 16.03.2020 and on that day the proof affidavit of P.W.1 was filed and Ex.A.1 to Ex.A.26 are marked and the case was posted for the cross examination. Thereafter, due to Covid-19 lock down the case had been periodically adjourned in the same stage of cross examination of P.W.1. In the meanwhile, the petition under Order 7 Rule 11 came to be filed and after due enquiry the same was

dismissed by this court on 12.01.2024 and again the case was posted for cross examination. However, the case had been adjourned for several hearings under the same caption in view of the adjournment obtained by both sides. Finally, when this court posted for the appearance of P.W.1 and cross as last chance on 09.04.2025, the present petitions have been filed by the plaintiff to recall P.W.1 for the purpose of further chief examination in order to mark some documents filed along with the petition in I.A.No.3/2025. The reason stated by the petitioner in both petitions is that the plaintiffs in order to substantiate their case and to adduce evidence regarding registration of Trademark the documents filed along with the petition needs to be received and for marking of the said document P.W.1 has to be recalled. The respondent filed a counter for both applications stating that the petitioners have not produced the original Trademark Certificate issued to them and they have not disclosed the reason as to why they were unable to produce the documents and prays for dismissal of the petition.

6. On perusal of records, it is found that a suit for permanent injunction has been pending in the stage of cross examination of P.W.1 almost for the past 5 years in view of the interim applications filed and

adjournments obtained on either side. Now the petitioners want to recall P.W.1 for the purpose of marking some documents which were filed along with the I.A.No.3/2025. The documents proposed to be marked by the petitioner are the Web copy of Certificate of Registration of Trademark and Certificate of renewal of registration and the pen drive the said documents in a digital format. In so far as receiving of documents is concerned, there is no hard and fast rule for receiving of documents and the documents can be received unless it is hit by Registration Act or Stamp Act. Receiving of documents is entirely different from marking of document and marking of document is entirely different from proving of the marked documents. . So far as the documents sought to be received by the petitioners is concerned, there is no impediment to receive those documents as the relevancy of the document can be decided only after receiving of the documents. Any document received is only subject to proof and relevancy. Just because a document is received, that does not mean that the said document was proved. If the documents are received subject to prove and relevancy no serious prejudice would be caused to the respondent. On the other hand, if the documents are not received, the plaintiff would be put into loss and hardship as the opportunity of the plaintiffs to prove their case will be

deprived which is against the principles of natural justice. The respondent/defendant would be provided with an opportunity of cross examination of P.W.1 on the documents which are going to be marked through him and as such they will not be seriously prejudiced. However, the plaintiffs have took almost 3 years to introduce these documents after commencement of the trial. Therefore, I am inclined to receive the documents filed along with the I.A.No.3/2025 with view to provide opportunity to the petitioners on payment of cost. The P.W.1 has to be necessarily recalled to mark the received documents. Therefore, I am inclined to allow both petitions on cost and this point is answered accordingly.

I.A.No.2/2025:-

In the result, this petition will be allowed on payment of cost of Rs.1000/- by the petitioner to the respondent on or before 02.09.2026 failing which the petition shall stand dismissed. Call on 03.09.2026 for reporting compliance.

I.A.No.3/2025:-

In the result, this petition will be allowed on payment of cost of Rs.1000/- by the petitioner to the respondent on or before 02.09.2026

failing which the petition shall stand dismissed. Call on 03.09.2026 for reporting compliance.

Dictated to the stenographer, directly typed by her in computer, taken printout, corrected, and pronounced by me in open court, this the 19th day of August, 2026.

PRINCIPAL DISTRICT JUDGE,
MADURAI.

Both sides witnesses and documents:- NIL.

PRINCIPAL DISTRICT JUDGE,
MADURAI.