



Fair Order / Draft Order

IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.

Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)

District Munsif, Vadipatti

Dated this the 06th day of December 2025

IA. No.04/2025 and IA. No.05/2025

in

O.S. No.157/2013

CNR. No.TNMD190002352013

1. O. Raja,
S/o. Otchanan
2. M. Chitra,
W/o. Maharajan
3. M. Maharajan,
S/o. Maharajan
4. C. Velavendhan
S/o. Chandrasekaran

----Petitioners / Defendants

//Versus//

1. A. Thanikodi (Died),
S/o. Arasagounder
2. Vanitha,
W/o. Thanikodi
3. Manojkumar,
S/o. Thanikodi
4. Thanabalan,
S/o. Thanikodi

----Respondents / Plaintiffs



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These petitions were filed before this Court on 17.11.2025 coming before me for final hearing on 06.12.2025, Advocate Thiru. G. Balasubramanian appeared for the Petitioners /defendants, and Advocate Thiru. R. Ganesan appeared for the Respondents / Plaintiffs. Upon hearing the arguments advanced on both sides, upon perusing the available material records, this Court has delivered the following....

COMMON ORDER

1. I.A. No.5 of 2025:

This petition was filed under sec. 151 of C.P.C. to reopen the cross examination of Pw.2 in the main suit.

2. I.A. No. 4 of 2025:

This petition was filed under order 18 rule 17 of C.P.C. to recall Pw.2 cross examination in the main suit.

3. Petition averments in brief:

The petition contention was that the petitioner was the 1st defendant in the main suit, it was filed by the respondents / plaintiffs for declaration and permanent injunction. The suit was in defendant side evidence. Further the petitioner contended that the counsel on record for the defendants was ill on 25.10.2025 hence he could not appear before this Hon'ble Court on that day for cross examining the Pw.2. Thereby the chance for cross examination of Pw.2 was closed on 25.10.2025. Thus the petitioners filed these petitions, seeking leave of this court to file reopen and recall the Pw.2 cross.

4. Counter averments in brief:

The respondents denied the entire petition contentions and stated that though sufficient time was granted to cross examine the Pw.2 on various date such as 24.09.2025, 06.10.2025, 17.10.2025 and 25.10.2025 as Pw.1 was died, the petitioners failed to cross examine Pw.2. Thus



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the cross of Pw.2 was closed on 25.10.2025. The suit was pending for defendant side evidence. At present the petitioners filed this petition to reopen and recall the cross of Pw.2, which was already closed. The reason stated by the petitioners for their inability to appear before this court for cross examination of Pw.2 was not properly explained and no documents was let in by the petitioners in support of their case. Thus the petition was filed only to protract the suit proceeding and hence liable to be dismissed.

5. Point for determination : i. Whether the petition to reopen cross examination of Pw.2 is to be allowed? and ii. Whether the petition to recall Pw.2 for cross examination is to be allowed?

i. Records perused. The petitioners filed these petitions to reopen and recall Pw.2 for cross examination in the main suit, which was closed on 25.10.2025. On the other hand, the respondents challenged the petition stating that this petition was filed on false grounds and filed only to delay the proceedings.

ii. On perusal of records, this petition was filed to reopen and recall Pw.2 for cross examination in the main suit, on the ground that the advocate appearing for the defendants could not appear before this court on the date of hearing to cross examine Pw.2 due to his ill health. On the other hand, the respondent opposed the petition stating this petition was groundless and filed only to delay the main suit. From perusal of records, main suit was of the year 2013, filed for declaration and permanent injunction not to disturb the peaceful possession of the plaintiffs in the suit property. At present the main suit was pending for defendant side evidence, at this stage this petition was filed.

6. In the present petitions, to reopen and recall Pw.1 for cross examination, the reason stated by the petitioners as their inability of the counsel to appear before this Court to cross the Pw.2 was not sufficient. The respondents had rightly pointed out that the reason stated in these petitions were not valid. In this scenario, this court is of the view though the petitioners /



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defendants was given all fair opportunity to cross examining Pw.2, as rightly pointed out by the learned respondents counsel, they have not cross examined Pw.2. However, this court is of the view that in order to ensure fair trial, subjecting a witness to cross examination is necessary. Hence, a final opportunity to the petitioners to reopen and recall Pw.2 for cross examination shall be allowed on costs.

7. ***In the result***, the petitions in I.A. No. 4 of 2025 and 5 of 2025 are allowed on cost of Rs.250/- each (Total cost Rs.500/-). Cost to be paid to the contesting respondents, on or before the next hearing in the main suit.

Directly dictated to the Stenographer and computerized error checked and pronounced in the open court on ***06th day of December 2025.***

District Munsif,
Vadipatti.

Petitioners side witness and documents : Nil

Respondents side witness and documents : Nil

District Munsif,
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DISTRICT MUNSIF COURT

Vadipatti

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IA. No.4 and 5/2025

In

O.S. No.157/2013

Date : 06.12.2025