

IN THE COURT OF THE DISTRICT MUNSIF, KUMARAPALAYAM

Present: Selvi. T. Naveena B.com, L.L.B (Hons).,

District Munsif,

Kumarapalayam.

Saturday the 7th day of March 2026

I.A. No.4/2026 AND I.A. No.5/2026

IN

O.S. No.259/2020

T. Rahul Prasath

...
/Vs/

Petitioner/3rddefendant

1. K. Shanmugavel

2. P. Anandan

...

Respondents 1 and 2/Plaintiffs 1 and 2

3. Velusamy

...

3rd Respondent/1st defendant

4. K.S. Boopathy

...

4th Respondent/2nd defendant

This Petition came up before this court for final hearing on 18.02.2026 in the presence of Tr. R. M. Gurusamy, Advocate for the Petitioner/3rd defendant and Thiru. G. Gunasekaran, Advocate for the Respondents 1 and 2/ Plaintiffs 1 and 2 and Thiru. A. D. Sekar, Advocate for the 4th Respondent/2nd defendant and 3rd Respondent/1st defendant had set exparte, and upon perusal of material records and having stood over for consideration till this date, this court delivers the following:

COMMON ORDERS

This petition has been filed under Section 151 CPC and Order XVIII Rule 17 and Section 151 of Code of Civil Procedure.

1. BRIEF FACTS OF THE PETITION WOULD RUN AS FOLLOWS:

The petitioner had been impleaded as the 3rd defendant and had filed his Written Statement on 22.03.2024. The petitioner had already filed a petition for Rejection of plaint in IA.No:03/2024 and the same has been dismissed by this court on 10.10.2025 and the CRP preferred before the Hon'ble High court was also dismissed. The merits of the above suit is in petitioner's favour and thus, the petitioner has filed the present petition to recall and reopen the evidence of PW1, PW2, PW3 and DW1 for cross examination, sine the said witnesses are playing a vital role. Therefore, the petitioner prayed to reopen the evidences of PW1, PW2,

PW3 and DW1 and to recall PW1, PW2, PW3 and DW1 for their cross examination.

2. BRIEF FACTS OF THE COUNTER STATEMENT FILED BY THE RESPONDENTS 1 AND 2 WOULD RUN AS FOLLOWS:

The respondents 1 and 2 denied all the allegations made by the petitioner except those admitted as true. The respondents 1 and 2 are conducting this suit in representative capacity based on the orders passed in I.A.No.409/2017 on behalf of all the creditors. These respondents admitted that the petitioner was impleaded as per the order passed in I.A.No:2/2024. The petitioner has not stated sufficient reasons to recall PW1, PW2, PW2 and DW1 and to reopen their side evidences. Thus, the petition is liable to be dismissed for not stating sufficient reasons.

3. BRIEF FACTS OF THE COUNTER STATEMENT FILED BY THE 4TH RESPONDENTS AND WOULD RUN AS FOLLOWS:

The present suit has been filed for the relief of declaration to declare the Sale deed dated 12.01.2016 by D1 to D2 as fraudulent and null and void. In the present suit, PW1 was examined in chief and cross on 09.01.2020 and 09.03.2020 respectively, PW2 was examined in chief and cross on 20.01.2021 and 22.09.2020 respectively, PW3 was examined in chief and cross on 25.11.2021 and 25.11.2021 respectively and DW1 was examined in chief and cross on 07.11.2024 and 06.11.2025 respectively.

After the chief examination of DW1 before his cross examination, the petitioner was impleaded as the 3rd defendant, who purchased 15-8/10 cents and other lands from this respondent and his co-owners on 03.09.2022. This respondent filed his objections for impleading the petitioner to this suit but the petition was allowed. After impleadment, the petitioner filed a petition to reject the plaint and the same was dismissed and the revision preferred against the same was also dismissed.

Now the petitioner has filed this petition to recall all the witnesses stating that the merit of the suit is his favour. Now this respondent suspects and believes that the petitioner had colluded with the plaintiffs. The petitioner is a transferee from a

transferee during the pendency of suit and has no independent legal right. The provision under Order XVIII Rule 17 is not a provision intended to enable the parties to recall any witnesses for their cross examination or to place additional material or evidence which could not be produced when the evidence was recorded. It enables to clarify any issue or doubt.

The grounds for invoking Section 53 of Transfer of Property Act is that the Sale on 12.01.2016 is a sham, nominal and a fraudulent document. If the contention of sham and nominal is accepted Section 53 of T.P.Act has no part to play. The suit itself is barred by limitation, res judicata and law.

4. **ISSUES:** Whether or not the PW1, PW2, PW3 and DW1 side evidence shall be reopened and PW1, PW2, PW3 and DW1 shall be recalled for cross examine them?

5. **DISCUSSION:**

Heard. Records perused. The above suit has been filed by the respondent 1 and 2 for the relief of Declaration that the Sale deed dated 12.01.2016 in favour of the 4th respondent as null and void and for permanent injunction. The present petition has been filed by the petitioner to recall PW1, PW2, PW3 and DW1 and to reopen their side evidences to cross examine them. The reason stated by the petitioner is that he had been impleaded to the suit as the 3rd defendant only on 24.01.2024 and that the merits of the case is in favour of the petitioner. The contention of the respondents is that the petitioner had not stated sufficient reasons to recall PW1, PW2, PW3 and DW1 and that the Order XVIII Rule 17 is not the proper provision to recall the witnesses.

From the perusal of records, this court observes that as rightly pointed out by the 2nd respondent, the evidences of PW1 had been concluded on 09.03.2020, of PW2 on 22.09.2020, of PW3 on 25.11.2021 and of DW1 on 06.11.2025. It is pertinent to note that the petitioner had been impleaded as a party to this suit only on 24.01.2024 i.e., after the conclusion of examination of plaintiff side witnesses. Therefore, to

provide equal opportunity to all the parties to cross examine their adverse parties and as per the principles of fair trial, this court considers that the petitioner shall be allowed to cross examine PW1, PW2 and PW3.

However, the reason stated by the petitioner merely that the merits of the case lies in favour of the petitioner, is not a sufficient reason to cross examine PW1, PW2, PW3 and DW1. Though the petitioner has not stated any sufficient reasons to recall the witness and to reopen their side evidences, in the interest of justice and to reach finality in the suit and for efficacious disposal of suit after fairly hearing both the parties and to avoid multiplicity of proceedings, this court is of the opinion that PW1, PW2, PW3 and DW1 shall be recalled and their evidences shall be reopened to enable the petitioner to cross examine them. However, though the petitioner had been impleaded as a party to this suit on 25.01.2024 itself and the petition filed by him to reject the plaint in I.A.No:3/2024 had been dismissed on 10.10.2025 itself, the petitioner had taken steps to examine the witnesses through this petition only on 02.01.2026 and thus, considering this delay, costs is imposed.

In the result, the above petitions are ALLOWED. A cost of Rs.1000/- shall be paid to the respondents on or before 12.03.2026. Call on 13.03.2026.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 07th day of March 2026.

District Munsif,
Kumarapalayam.

PETITIONER SIDE DOCUMENTS Nil

RESPONDENT SIDE DOCUMENTS Nil

District Munsif,
Kumarapalayam.

Fair/Draft orders
IA.4,5/2026 IN
OS.No.259/2020
Date:04.03.2026