

**IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM**

Present: **Thiru. L. PRAKASH, B.Sc., B.L.,**
DISTRICT MUNSIF, UDHAGAMANDALAM.

Wednesday, the 15th day of July 2026

I.A. Nos. 01 & 02 of 2026
in
O.S. No. 41 of 2020
(C.N.R. No. TNNS030 - 00065 - 2020)

H. Krishnan

... Petitioner/Plaintiff

/VS/

1. N. Subramani @ Doddanna

2. Shekar

3. N. Mani @ Jaan

... Respondents/Defendants

This petition came on 23.06.2026 for final hearing before me in the presence of Mr. Patel T. Srinivas, learned Counsel for the Petitioner/Plaintiff and of Mr. T.K. Devaraj, learned Counsel appearing for the Respondents/Defendants, upon considering case records carefully, this court passes the following:

COMMON ORDER

1. The petition in I.A. No. 01 of 2026 has been filed under Section 151 of the Code of Civil Procedure seeking to reopen the plaintiff's side evidence for the purpose of examining the Advocate Commissioner and the Government Surveyor as witnesses on the plaintiff's side. The petition in I.A. No. 02 of 2026 has been filed under Order XVI Rule 1 (2) read with Section 151 of the Code of Civil Procedure seeking permission to summon and examine the Advocate Commissioner,



Mrs. L. Sruthi, and the Government Surveyor, Mr. Jeyakumar, as witnesses on the plaintiff's side.

Gist of petition and affidavit:

2. The petitioner/plaintiff states that the suit has been instituted for recovery of possession of about 436 sq. ft. of land allegedly encroached upon by the respondents/defendants in R.S. No.555/2 of Thummanatty Village and for mandatory injunction. During the pendency of the suit, an Advocate Commissioner was appointed under Order XXVI Rule 9 CPC with the assistance of a qualified Government Surveyor. The Advocate Commissioner inspected the suit property and submitted the Commissioner's report and plan dated 31.10.2022.

3. The petitioner further states that after filing of the Commissioner's report, the plaint was amended and thereafter the defendants filed petitions for reopening and recalling PW1, which were allowed. Though PW1 was subsequently cross-examined, the Advocate Commissioner and the Government Surveyor were not examined due to omission on the part of the previous counsel. According to the petitioner, their evidence has become necessary to explain the Commissioner's report, survey sketch and the alleged encroachment. It is also stated that the Government Surveyor has since been transferred and therefore witness summons is required to secure his presence. Hence, the petitioner seeks reopening of the plaintiff's evidence and permission to summon and examine both the Advocate Commissioner and the Government Surveyor as witnesses.

Counter statement:

4. The respondents/defendants have endorsed "No Counter" in both the petitions. Thus, there is no serious objection from the respondents' side.

**Point for Consideration:**

5. Heard the Petitioners side enquiry, the petition and affidavit filed and the case records perused carefully. The point for determination in this petition is Whether the plaintiff is entitled to reopen the plaintiff's side evidence in I.A. No. 01 of 2026? Whether the plaintiff is entitled to summon and examine the Advocate Commissioner and the Government Surveyor as witnesses in I.A. No.02 of 2026?

Discussion:

6. Since both the interlocutory applications arise out of the same suit and the relief sought in one application is consequential to the other, they are taken up together and disposed of by this common order.

7. The records reveal that an Advocate Commissioner was appointed by this Court under Order XXVI Rule 9 CPC with the assistance of a Government Surveyor for local inspection and measurement of the suit property. Pursuant thereto, the Advocate Commissioner inspected the property and submitted the Commissioner's report and plan, which now form part of the case records.

8. The plaintiff seeks reopening of the evidence solely for the purpose of examining the Advocate Commissioner and the Government Surveyor to explain the Commissioner's report and survey sketch with reference to the alleged encroachment. The Court finds that the evidence of these witnesses would assist in proper appreciation of the Commissioner's report and facilitate effective adjudication of the real dispute between the parties. The respondents have not opposed either of the applications and have chosen to endorse "No Counter."



9. It is well settled that the inherent powers under Section 151 CPC can be exercised to reopen evidence where such reopening is necessary for a just and effective adjudication of the issues involved, provided no prejudice is caused to the opposite party. Equally, under Order XVI CPC, the Court has ample power to permit a party to summon witnesses whose evidence is relevant and necessary for deciding the controversy involved in the suit.

10. The proposed witnesses are not strangers to the proceedings. They had acted pursuant to the orders of this Court while executing the commission warrant. Their examination would only enable the Court to appreciate the Commissioner's report and survey sketch in their proper perspective. Since the respondents have not raised any objection, this Court is of the view that no prejudice would be caused to them by allowing the petitions.

11. Accordingly, this Court finds that sufficient cause has been shown to reopen the plaintiff's side evidence and to permit the plaintiff to summon and examine the Advocate Commissioner and the Government Surveyor as witnesses. However, considering that the suit is of an earlier year and has already reached the advanced stage of trial, the applications deserve to be allowed on terms so as to compensate the respondents for the delay.

Result:

12. In the result, I.A. Nos. 01 and 02 of 2026 are allowed, subject to the petitioner/plaintiff paying costs of Rs.500/- (Rupees Five Hundred only) in each petition to the respondents/defendants on or before 20.07.2026.



13. On such payment, the plaintiff's side evidence will be reopened and the petitioner/plaintiff will be permitted to summon and examine the Advocate Commissioner, Mrs. L. Sruthi, and the Government Surveyor, Mr. Jeyakumar, as witnesses on the plaintiff's side, on payment of necessary process and fee, if any.

14. The petitioner shall ensure that the examination of the above witnesses is completed without seeking unnecessary adjournments.

15. For compliance call on 20.07.2026.

This order is dictated by me to the steno typist, transcribed by her, corrected and pronounced by me in the open court on this the 15th day of July 2026.

**District Munsif,
Udhagamandalam**



Draft/ Fair Order:

I.A. Nos. 01 & 02/2026
in
O.S. No. 41/2020

Dated: **15.07.2026**

District Munsif,
Udhagamandalam.