

IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM

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

Wednesday, the 25th day of February 2026

I.A. No. 02 of 2026
in
O.S. No. 82 of 2015
(C.N.R. No. TNNS030 - 00108 - 2015)

B. Deguramma

... Petitioner/Plaintiff

/VS/

1. K.P. Raju (Since Deceased)
2. R. Pradeep Kumar
3. Renuga
4. R. Bharathi
5. R. Anitha
6. R. Aswini
7. Depo Chandran @ Chandran
8. Sruthi
9. P. Depika

... Respondents/Defendants

This petition came on 23.02.2026 for final hearing before me in the presence of Mr. C. Yesuraj, learned Counsel for the Petitioner/Plaintiff and of Mr. H. Bheemaraj, learned Counsel appearing for the Respondents 3 to 6, 8 and 9/Defendants Nos. 3 to 6, 8 and 9 and of Mr. P. Rangaswamy, learned counsel appearing for the Respondent No.7/Defendant No.7, the Respondent No.2/Defendant No. 2 remains dead, upon hearing both sides, and upon considering case records

carefully, this court passes the following

ORDER

1. This petition is filed by the petitioner/plaintiff Under Order XVI Rule 1 (3) of the Code of Civil Procedure, praying to permit the petitioner to examine an additional witness on her side.

Gist of Petition and affidavit:

2. The petitioner/plaintiff has filed the present petition seeking permission to examine the Town Planning Officer, Udhagamandalam Municipality, as an additional witness. According to the petitioner, a 12 feet wide road branching from the Udhagamandalam Municipal Road and passing through T.S.Nos. C/25/33, 34, 35 and 37 was in existence even prior to the purchase of the suit schedule property by his son. It is further contended that the said road is being used by the residents of the locality and that municipal drainage and water lines are laid in the said road.

3. The petitioner further states that certain house construction plans were sanctioned by the Municipality based on the said road and that one Mr. Chenkesh has constructed a house in T.S.No. C/25/33 pursuant to a sanctioned plan. Hence, according to the petitioner, it is necessary to summon the Town Planning Officer to produce the sanctioned house plan and layout approval records in order to establish the existence of the 12 feet road. On the above grounds, the petitioner seeks permission to examine the Town Planning Officer as an additional witness in the interest of justice.

Gist of counter statements:

4. The 8th respondent, whose counter has been adopted by respondents 3 to 6 and 9, has filed a counter stating that the petition is false, frivolous and filed only to delay the proceedings. The allegations in the affidavit are denied and the petitioner is put to strict proof of the same.

5. The 7th respondent has also filed a detailed counter stating that there was no public road as alleged by the petitioner. According to the 7th respondent, the road in question was laid by him at his own cost after putting up a bridge across a channel and forming a private layout within his own property. It is specifically contended that the road is a private road and that the petitioner has no right over the same. It is further contended that the Town Planning Officer has no authority to sanction layout approvals and that any document production, if at all, should be addressed to the Commissioner of the Municipality. The respondents contend that the present petition is only an attempt to create evidence after having failed to secure appointment of a Commissioner and that the same has been filed only to protract the proceedings. Hence prays to dismiss the petition with cost.

Points for Consideration:

6. Heard both sides, petition, counter statements, case records perused carefully. In this petition the points arose for consideration are that, 1. Whether the petitioner has shown sufficient cause for permitting examination of the Town Planning Officer as an additional witness under Order XVI Rule 1(3) CPC? 2. Whether the examination of the proposed witness is necessary and relevant for effective adjudication of the suit for permanent injunction? 3. Whether the petition is liable to allowed or not?

Discussion and Finding:

7. It is an admitted fact that the original suit was filed in the year 2015. The records reveal that the suit has been pending for more than a decade and has been prolonged till date for various reasons, including filing of petitions after petitions at different stages of the proceedings. It is also relevant to note that the prayer in the suit is only for permanent injunction. No declaratory relief has been sought by the plaintiff with regard to title or declaration of any public right over the alleged 12 feet road.

8. In a suit for bare permanent injunction, the primary consideration is possession and alleged interference. The issue to be decided is whether the plaintiff was in lawful possession of the suit property on the date of suit and whether there was interference by the defendants. The question as to whether the layout is approved or whether a particular house plan was sanctioned by the Municipality is not directly and substantially in issue in the present suit.

9. The petitioner now seeks to summon the Town Planning Officer to produce sanctioned plans and layout approvals in respect of certain survey numbers. However, the existence or otherwise of municipal approval does not by itself confer or establish a legal right of pathway in favour of the plaintiff, particularly when the suit is not one for declaration of easementary right or declaration of public road. Further, the suit being of the year 2015, and the proceedings having been delayed repeatedly by filing interlocutory applications, this Court is of the view that the present petition is yet another attempt to prolong the proceedings. Order XVI Rule 1(3) CPC confers discretion on the Court to permit examination of witnesses not included in the original list, but such discretion must be exercised only when the evidence sought to be adduced is necessary for just decision of the case.

10. In the present case, this Court finds that the proposed evidence is not essential for adjudication of the limited issue involved in the suit for permanent injunction. The petition appears to be an attempt to collect additional material at a belated stage and to widen the scope of the suit beyond its original frame.

11. Accordingly, this Court holds that the petitioner has not made out sufficient grounds to permit examination of the Town Planning Officer as an additional witness. Hence, this court not inclines to allow this petition.

RESULT:

12. In the result, this petition is dismissed. Considering the prolonged pendency of the suit since the year 2015 and the repeated filing of interlocutory applications contributing to delay, the parties are directed to cooperate for early disposal of the suit. No order as to costs.

This order is dictated to the steno - typist, typed by her in computer, corrected by me and pronounced by me in the open court on this 25th day of February 2026.

**District Munsif,
Udhagamandalam.**

Draft/Fair Order:

I.A. No. 02/2026
in
O.S. No. 82/2015

Dated: 25.02.2026

**District Munsif Court,
Udhagamandalam.**