



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

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

Tuesday, the 21st day of July 2026

I.A. No. 01 & 02 of 2026
in
O.S. No. 67 of 2023
(C.N.R. No. TNNS030 - 00086 - 2023)

Muralidharan

... Petitioner/Defendant No. 4

/VS/

1. Ganesh

2. Vinoth Kumar

... Respondents/Plaintiffs

/Vs/

3. Chithra

4. Rahul

5. Priyanka

... Respondents/Defendants No. 1 to 3

These petitions came on 22.04.2026 for final hearing before me in the presence of Mr. N. Arjjunan, learned Counsel for the Petitioner/Defendant No. 4 and of Mr. D. Jose, learned Counsel appearing for the Respondents/Plaintiffs and the Respondents/Defendants No. 3 to 5 remains exparte, upon hearing both sides, and upon considering case records carefully, this court passes the following

COMMON ORDER

1. These Interlocutory Applications in I.A. Nos. 01 and 02 of 2026 arise out of the same suit and are interconnected. I.A. No. 01 of 2026 has been filed under



Section 151 of the Code of Civil Procedure, 1908, seeking to reopen the plaintiff's side evidence for the purpose of permitting further cross-examination of PW1 by the petitioner/4th defendant. I.A. No. 02 of 2026 has been filed under Order XVIII Rule 17 read with Section 151 of the Code of Civil Procedure, 1908, seeking to recall PW1 for the purpose of such cross-examination.

2. Since both the Interlocutory Applications arise out of the same suit, are founded on the same set of facts, and the relief sought in one application is consequential to the other, they are taken up together and are disposed of by this common order.

Gist of Petition and affidavit:

3. The petitioner/4th defendant states that the suit was posted for further cross-examination of PW1 by defendants 1 to 3 on 12.02.2026. Though PW1 was fully cross-examined by defendants 1 to 3, no opportunity was afforded to the 4th defendant to cross-examine PW1, despite the fact that the 4th defendant is a necessary and proper party, having purchased the suit property from defendants 1 to 3. Thereafter, the plaintiff's evidence was closed and the suit was posted for the defendants' side evidence. It is contended that unless PW1 is recalled and the plaintiff's side evidence is reopened, the petitioner would be deprived of his valuable right of cross-examination, which is essential for an effective adjudication of the dispute. Hence, the petitioner seeks reopening of the plaintiff's evidence and recall of PW1 for cross-examination.

Gist of Counter statement of filed by the 1st Respondent and Adopted by the 2nd Respondent:

4. The respondents 1 and 2/plaintiffs contend that the petitions are false, frivolous, vexatious, and not maintainable either on facts or in law. They deny all the



averments made in the affidavit filed by the petitioner. According to them, the petitioner is attempting to protract the proceedings and has filed these petitions only to delay the disposal of the suit. They further contend that they have perfected their title by inheritance and that the petitioner is attempting to encroach upon the suit property. Hence, they pray for dismissal of the petitions with costs.

5. Though sufficient opportunities were granted, respondents 3 to 5 did not file any counter statement and were set ex parte. Hence, they have not contested these petitions.

Points for consideration:

6. Heard the learned counsel for the petitioner. The petition and the case records perused carefully. The point arose for consideration in this petition is, *"Whether the petitioner/4th defendant has made out sufficient grounds to reopen the plaintiff's side evidence and recall PW1 for the purpose of cross-examination?"*

Discussion:

7. The case of the petitioner is that he was denied an opportunity to cross-examine PW1 due to the inadvertent posting of the case by the Court after completion of cross-examination by defendants 1 to 3, whereas the respondents 1 and 2/plaintiffs contend that the petitions have been filed only to delay the proceedings and are liable to be dismissed.

8. On a careful perusal of the records, it is seen that the suit was instituted on 22.06.2023 seeking the reliefs of declaration and consequential permanent injunction. PW1 was examined in chief on 19.01.2026 and the chief examination was completed on the same day. The matter was thereafter posted for cross-examination



on 27.01.2026. On the request of defendants 1 to 4, the matter was adjourned to 04.02.2026. On 04.02.2026, PW1 was partly cross-examined by defendants 1 to 3 and, at their request, the matter was adjourned to 12.02.2026 for further cross-examination. On 12.02.2026, PW1 was fully cross-examined by defendants 1 to 3.

9. However, due to an inadvertent oversight on the part of the Court, the matter was posted for further plaintiff's side evidence without affording an opportunity to the 4th defendant to cross-examine PW1. Subsequently, on 23.02.2026, the plaintiff closed his side evidence and the suit was posted for the defendants' evidence on 03.03.2026. On that date, the present applications were filed and returned for compliance with office objections. The applications were thereafter re-presented on 10.03.2026.

10. It is well settled that the right of cross-examination is a valuable right available to every contesting party. From the records, it is evident that the petitioner was deprived of such opportunity not on account of any deliberate lapse on his part but due to the inadvertent omission in the posting of the case. The petition has also been filed at the earliest available opportunity before commencement of the defendants' evidence. Therefore, no serious prejudice would be caused to the plaintiffs if one opportunity is granted to the petitioner to cross-examine PW1.

11. On the contrary, denial of such opportunity would result in prejudice to the defence of the 4th defendant and may affect the effective adjudication of the suit. Though the respondents/plaintiffs contend that the petitions have been filed only to protract the proceedings, this Court is unable to accept the said contention in view of the sequence of events reflected in the records. Accordingly, this Court is of the considered view that sufficient grounds exist to reopen the plaintiff's evidence and



recall PW1 for cross-examination by the petitioner/4th defendant. Considering the facts and circumstances of the case, both parties are directed to bear their own costs.

Result:

12. In the result, I.A. Nos. 01 and 02 of 2026 are allowed. No order as to costs. The plaintiff's side evidence is reopened and PW1 is recalled for the purpose of cross-examination by the petitioner/4th defendant. The petitioner/4th defendant shall complete the cross-examination of PW1 on the date fixed by this Court without seeking any unnecessary adjournment. In the event of failure to do so, the opportunity granted under this order shall stand forfeited.

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 21st day of July 2026.

**District Munsif,
Udhagamandalam.**



Draft/Fair Order:

**I.A. No. 01/2026
in
O.S. No. 67/2023**

Dated: **21.07.2026**

**District Munsif Court,
Udhagamandalam.**