

**IN THE COURT OF DISTRICT MUNSIF, MUDUKULATHUR.**

**Present: Ms.J.C.Aparna, B.A, L.L.B.,  
District Munsif,  
Mudukulathur.**

Wednesday, the 03<sup>rd</sup> day of December 2025

**I.A.No.08/2025 & I.A.No.09/2025**

**in**

**O.S.No.24/2016**

S.R.Ponnumani

....Petitioner/ 2<sup>nd</sup> defendant

*/VS/*

1. Sundhari

... 1<sup>st</sup> Respondent/ Plaintiff

2. R.Sivasankarakumar

...2<sup>nd</sup> Respondent/ 1<sup>st</sup> defendant

(rep.through his power agent R.Thangapandiyan)

This petition came on 20.11.2025 before this court for a final hearing in the presence of Thiru.D.Pandikumar, Learned Counsel for Petitioner/2<sup>nd</sup> defendant, Thiru.K.Velusamy, Learned Counsel for the 1<sup>st</sup> Respondent/Plaintiff and Thiru.H,Muralitharan, Learned Counsel for the 2<sup>nd</sup> Respondent/ 1<sup>st</sup> Defendant and upon hearing both sides enquiry and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

**COMMON ORDER**

This petition has been filed under Section 151 & OR XVIII R 17 of Civil Procedure Code to reopen and recall the plaintiff side evidence.

**2. The contention of the Petitioner/ 2<sup>nd</sup> defendant in brief:-**

The petitioner is the 2<sup>nd</sup> defendant in the main suit. The main suit is filed by the plaintiff against the defendant. The petitioner has purchased 32 cents out of the

total extent of 82 cents in the suit property. The petitioner was only impleaded as a 2nd defendant during the cross examination of DW1. Hence he was not granted opportunity to cross examine the plaintiff side witnesses. Hence this petition to reopen the main case for cross examination of PW1 and PW2 by the petitioner by recalling them, if this petition is not allowed the petitioner will be put to irreparable loss and hardships. Hence prays to allow this petition.

### **3. Brief averments of the 1<sup>st</sup> Respondent/Plaintiff in brief:**

The 1st respondent/plaintiff denies the averments in the petition. The 1st defendant appointed this 2nd defendant's wife's brother as his power agent to represent him in this present suit in the year 2019 itself and the petitioner is well aware of the suit pending before this court. Meanwhile he has purchased 32 cents out of the suit property pending the litigation, hence the doctrine of Lis Pendens will apply. Also the 1st defendant in his cross examination has admitted transferring the suit property pending litigation to this 2nd defendant without consideration. Hence the petitioner/2nd defendant cannot have any legal right over the suit property. The 1st and 2nd defendants are colluding with each other. The High court has passed an order directing the trial court to complete the main suit proceedings within 6 months. Hence this petition is filed to drag on the case proceedings and this liable to be dismissed.

### **4. Point for consideration:-**

Whether the petition be allowed and the relief be granted as prayed for?

Heard both sides. 2<sup>nd</sup> respondent/ 1<sup>st</sup> defendant endorsed as no counter. On the side of petitioner no document was marked. On the side of 1<sup>st</sup> respondent/plaintiff Ex.R1 & R2 were marked.

**5. Answer to the Point:-**

5.1. The case of the petitioner is that he is a subsequent purchaser and was impleaded as the 2<sup>nd</sup> defendant in the suit. The main suit was posted for the cross examination of Dw1 at the time when he was impleaded as a party. Hence he was not granted opportunity to cross examine the plaintiff side witnesses. Now he has filed this present petition to recall the plaintiff side witnesses to cross examine them and to reopen the case for the same. Whereas the 1st respondent/plaintiff states that the petitioner/2nd defendant is only a subsequent purchaser and the doctrine of Lis pendens will apply and he cannot have any legal right over the suit property. It is also stated that the Honorable High Court order in WP (MD) No.8921/2016 and WMP(MD) No.7108/2016 has issued directions for the trial court to complete the proceedings within 6 months and the petition has been filed with the sole reason to delay the proceedings in the main suit.

5.2. On perusal, it is seen that even though the petitioner is a subsequent purchaser and the doctrine of lis pendens will apply it is just and necessary to provide him a fair opportunity to cross examine the plaintiff side witnesses as he is also a proper party to the suit. Refusing the right to cross examine the plaintiff side witnesses will be against the rules of natural justice as it can be seen that he was only impleaded at the stage of defendant side evidence and he was not provided an opportunity to cross examine the plaintiff side witnesses (Pw1 and Pw2) But seeing that the Honourable High court order in WP (MD) No.8921/2016 and WMP(MD) No.7108/2016 has directed to complete the main suit within a period of 6 months, due to the time bound nature of the suit, this court is inclined to allow this petition with the condition that petitioner/2nd defendant shall cross examine Pw1 and Pw2 without causing any unnecessary delay to the proceedings of the main suit. In the light of the above said reasons, this petition is allowed. No order as to costs.

6. In the result, this petition is allowed. No order as to costs.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 03<sup>rd</sup> day of December 2025.

**District Munsif,  
Mudukulathur.**

**Petitioner side witnesses and documents : Nil**

**Respondents side witness: Nil**

**Respondents side Documents:**

Ex.R1	-	Petition and Affidavit filed by the petitioner/2nd defendant in IA No.08/2025 in OS 24/2016- Certified copy
Ex.R2	-	Order in WP (MD) No.8921/2016 and WMP(MD) No.7108/2016- Certified copy

**District Munsif,  
Mudukulathur.**