

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, ATTUR

PRESENT : **Tmt. D. JANSIRANI, MBA., LL.M.,**
ADDITIONAL DISTRICT MUNSIF, ATTUR.

Friday, 8th day of August 2025

I.A. No. 7/2025 in O.S. No. 108/2004

CNR No. TNSA13-000062-2004

Karuppanna Gounder

. . . Petitioner/Defendant

/Versus/

1. Perumal (died)
2. Periyammal
3. Chellammal
4. Pavunu
5. Manigandan

. . . Respondents/Plaintiffs

This petition is came up for final hearing before me on 08.08.2025 in the presence of Thiru.R.Sankar , Advocate for the Petitioner/Defendant and Thiru. P.Ravindran, Advocate for the Respondents/Plaintiffs upon hearing the arguments on either side, and upon perusing the materials records, and having stood over till this day for consideration, this date, this court delivers the following,

ORDER

The Petitioner/Defendant has filed this petition U/o.18 R.17 and section 151 of CPC praying to recall the witness Pw2 for the purpose of cross examination.

2. Brief averments made in the petition :

The Petitioner/Defendant stated that Pw2 was examined by Advocate commissioner. The Advocate commissioner not intimated the proper time for the recording the evidence of Pw2 on 14.07.2025 to his counsel. Since the proper time was not intimated the counsel for the petitioner not able to cross examine Pw2 on that day. The Advocate commissioner filed the report without recording the cross examination of Pw2 and the evidence of Pw2 was closed. Hence filed this petition to recall Pw2 for cross examination.

2. Brief averments made in the counter

The Respondents / Plaintiffs objected this petition that this petition is not maintainable and the averments stated in the affidavit are false and denied. The petitioner /defendant purposely dragon the case for the past 20 years. Since Pw2 was examined by Advocate commissioner the petitioner/defendant has to bare the expense of Advocate commissioner for recall of Pw2. There is no strong reason stated for recall of Pw2. Hence this petition is liable to be dismissed.

3. *Now the point for consideration is Whether the petitioner/defendant is entitled to get the relief prayed in the petition?*

4. Both side argument heard. The petition, counter and records are carefully perused.

In this case the Respondent/plaintiff filed the suit against the petitioner/defendant for Specific performance , permanent injunction and recovery of possession. Pw2 is the witness to the sale agreement filed by the plaintiffs. The petition was filed to examine Pw2 through an the Advocate commissioner and the same was allowed. The Advocate commissioner fixed the date for examination for Pw2 as 14.07.2025 at 11.30 A.M. In spite of notice given by the Advocate commissioner to both side counsels the defendant counsel did not go for cross examination. Hence examination of

Pw2 was recorded by the Advocate commissioner without cross examination and Advocate commissioner filed his report.

Now the petitioner/defendant filed this petition for cross examination of Pw2. On considering the facts and circumstances of the case this court inclined to allow this petition for the interest of Justice. Since Pw2 is suffering by chronic heart disease the commission for recording of evidence was ordered. Hence the cross examination of Pw2 is also to be recorded through an Advocate commissioner.

To avoid the multiplicity of proceedings and for speedy disposal the Advocate commissioner Mr.M.Senthilkumar who was appointed earlier is hereby directed to record the evidence of Pw2 by petitioner/defendant. Further he is directed to examine the witness at his residence after giving due notice to both sides counsels. He is also directed to obtain Ex.A1(Sale Agreement between plaintiff and defendant dt.30.09.2002) from the court on the day fixed for the examination of the witness. He is entitled for the remuneration of Rs.3,000/- for the above purpose. He is entitled to get the remuneration after recording the deposition of the witness and filing the report.

Further the petitioner/defendant is directed to pay Rs.1000/- as cost to the witness Pw2 namely Perumal on the date of cross examination and memo to be filed for the same.

Dictated to the Steno typist directly, typed by her, corrected and pronounced by me in the open court on this the 8th day of August 2025.

**Additional District Munsif
Attur**

List of Documents and Witnesses on Both side:

Nil.

**Additional District Munsif
Attur**

A.D.M. Court, Attur.

DRAFT / FAIR ORDER

I.A. No. 7/2025 in O.S. No. 108/2004

Dated : 08.08.2025