

IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT

Present: **Thiru. M.Selvam, B.A., B.L.,**

District Munsif, Mettur

Tuesday, this the 04th day of November 2025

I.A.No. 12 of 2025

in

O.S. No. 194 of 2013

CNR.No.TNSA17-000031-2013

1. Palani,
- *2. Kaveri (died)
3. Arumugam,
4. Kolandaipaiyan
5. Kandasamy

Plaintiffs

-Vs-

- *1. Periyannan (died)
2. Subramani,
3. Sekar
- *4 Ponnammal **(died)
- 5 Dhanalakshmi,
6. Rani,
7. Sudhanthira Vanitha
8. Shanmugan Kumar
9. Chandramekala
10. Manikandan
11. Punithavathi
12. Chinnathayee
13. Govindammal
14. Pappal
15. Rajammal
16. Periyasamy
17. Rajamanickam
18. Kandasamy
- ** 19. Velumani
- ** 20. Manimegalai
- ** 21. Manikandan
- **22. Govindaraj
- **23. Bhuvaneswari
- **24. Chandra.

* Amendment carried out as per order IA.5/2021 dated 01.11.2021

**Amendment carried out as per order IA.6/2021 dated 15.02.2022.

Defendants

This petition is heard in the presence of Mr. B. Balamurugan., M.A., M.L., the Learned counsel for the Petitioners/Plaintiffs and Mr. P. Rajkumar., B.A., B.L., the Learned counsel for the 2nd and 3rd Respondents/2nd and 3rd Defendants. The 1st and 4th respondents were died. The respondents 5 to 11 were set-exparte on 21.08.2025. The respondents 12 to 24 were set-exparte in the original suit proceedings. Enquiry heard and having stood over for my consideration till this day, this court delivered the following,

ORDER

This petition was filed by the petitioners/plaintiffs under Section 151 of CPC to reopen the plaintiff side evidence for the purpose of examining additional witness on their side.

1. Brief facts in the petition is as follows:

1.1. The petitioners are the plaintiffs in the original suit and the same was filed for the relief of declaration and permanent injunction. The present suit and the suit filed by the respondents in O.S.No. 341 of 2015 are being tried simultaneously. The oral evidence on the side of the plaintiffs in the original suit was closed on 11.12.2023 and then posted for the defendant side evidence and they had also examined witnesses. The witness, who have to be examined after the examination of PW1 was under ailment and was under bed rest as per the doctor's advice. Hence, the petitioners could not able to examine him before this court.

1.2. Since, the suit is of the year 2013, the petitioners decided to file this petition after the examination of the defendants side witnesses. But in order not to delay the case proceedings, this petition is filed in the event of DW2 cross examination. The witness to be examined on the side of the petitioners was

recovered from the ailment. His evidence is more vital to the case proceedings. Hence, this petition is filed to reopen the plaintiffs side evidence.

2. Brief facts in the Counter filed by 2nd respondent and adopted by the 3rd respondent is as follows:

2.1. The respondents specifically denied the averments put forth in the petition averment. There is no prima facie to file this petition. The reason adduced by the petitioner are all false one. The petitioners had not taken any steps to examine any additional witnesses and the same was closed in the year 2023. The petitioners had also not at all disclosed, who is the said additional witness, who have to be examined on their side. The petitioners had also not filed any documents to establish the alleged ailment caused to him. This petition is filed after two years with false averments. Hence, this petition is liable to be dismissed.

3. No oral and documentary evidence on either side.

4. Point For Consideration:-

(i) Whether this petition has to be allowed or not ?

5. Both side rival submissions heard with regard to their pleadings and perused the materials on record. The original suit was filed by the petitioners/plaintiffs for the relief of declaration, to declare that the plaintiffs is having the right of easement of prescription in the suit pathway and consequential relief of permanent injunction. The stage of the case is for cross examination of DW2. At this juncture, this petition is filed by the petitioners/plaintiffs to examine additional witness on their behalf and hence, to reopen the plaintiffs side evidence.

6. Though in the petition averments, it was averred that their witness was under ailment and was advised to take bed rest by the doctor, the petitioners had

not all disclosed even the name of the witness. Admittedly, no documents was filed by the petitioners to establish the above said alleged ailments. On perusal of the case records, it shows that plaintiffs side evidence was closed on 11.12.2023 after examination of the PW1. This petition is filed to reopen the plaintiff side evidence on 09.01.2025 i.e) nearly a year later. This court forms opinion that dismissing this petition on this ground alone would not advance the interest of justice to either side. Further, this court forms opinion that the plaintiffs should also be provided with sufficient opportunity to establish their case. At the same time, the delay caused to the respondents has to be certainly compensated by the manner known to law. Hence, in the interest of justice and in order to avoid multiplicity of proceedings, this court is inclined to allow this petition on payment of cost.

In the result, this petition is allowed on payment of cost of Rs. 1,000/- to the contesting respondents 2 and 3 on or before 19.11.2025, if not, this petition stands dismissed. For compliance call on 20.11.2025.

This order is typed by me in my official laptop, corrected and pronounced by me in open court on this 04th day of November 2025.

**District Munsif,
Mettur**

Both side witnesses and documents: Nil

**District Munsif,
Mettur**