

IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PERIYAKULAM, THENI DISTRICT.

Present: Mr. C.SANKAR, B.A. M.L. PGDCFS.,
Additional District and Sessions Judge,
Periyakulam, Theni District.

Wednesday, the 1st day of July, 2026.

IA.No.09/2026

- in -

OS.No.78/2019

-

Balaji

... Petitioner/Defendant

// Vs. //

Senthilkumar

... Respondent/Plaintiff

This petition came up for final hearing before this Court on 24.06.2026, in the presence of Mr. M.Vellaichamy, Learned Counsel for the petitioner and Mr. M.Kamaraj, Learned Counsel for the Respondent and upon perusing the Petition, Counter and Documents and upon hearing both side arguments and having stood over for consideration till this day, this Court delivered the following...

ORDER

This petition has been filed by the Petitioner/Defendant under Order 16 Rule 6 and Section 151 of CPC seeking an order to summon and examine the witness, Latha (W/o. Velmurugan), as a witness on behalf of the defendant.

Averments made in the Petition in brief is as follows:

2. The petitioner is the **Petitioner/Defendant** in this suit. The Plaintiff has instituted the present suit against the petitioner for recovery of money and the same is pending before this Hon'ble Court. The above suit was posted on 07.01.2022 for

filing the list of witnesses. In order to establish the petitioner's defence, it is necessary to examine an important witness on the petitioner behalf and to have the said witness produce the relevant documents before this Hon'ble Court. The petitioner ready and willing to pay the requisite batta/process fee for issuance of summons to the said witness. One Mrs. Latha, W/o. Velmurugan, residing at Maravar Street, Sedapatti, Vadugapatti Post, Periyakulam Taluk, Theni District, who is a third party to this suit and also the petitioner's relative (daughter of the petitioner maternal uncle), had lent the petitioner a sum of Rs.3,00,000/- (Rupees Three Lakhs only) about ten years ago. As security for the said loan, The petitioner had handed over to her one blank promissory note, two signed cheques with the amount left blank, and the title deed relating to a vacant house site. Thereafter, The petitioner had been paying the interest amount from time to time, though the principal amount remained unpaid. While one Mr. Senthilkumar, who resides near the house of the said Latha, lodged a complaint against the petitioner before the Hon'ble Superintendent of Police, Madurai Rural, on 16.08.2017. In the said complaint, it was falsely alleged that the petitioner had received a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) from him for the purpose of manufacturing jewellery and thereafter dishonestly failed to repay the said amount. Pursuant to the said complaint, the then Sub-Inspector of Police, Kadupatti Police Station, conducted an enquiry. During the course of the enquiry, the aforesaid Latha and Velmurugan were summoned and examined in person. Upon completion of the enquiry, it was concluded that there had been no monetary transaction or financial dealing, whatsoever between the Plaintiff in the present suit and the petitioner. The enquiry report to that effect was submitted to the Hon'ble Superintendent of Police, Madurai Rural. Even as of now, the said Latha continues to demand repayment of the loan amount of Rs.3,00,000/- from the petitioner and has categorically stated that she will return the blank promissory note, the cheques, and the title deed only after the petitioner repay the entire loan amount. However, the Plaintiff in the present suit has falsely alleged that the petitioner had borrowed a sum of Rs.8,00,000/- from him and has instituted the present suit claiming approximately Rs.16,00,000/- inclusive of

interest. Therefore, the said Mrs. Latha, W/o. Velmurugan, is a material and indispensable witness who is capable of explaining the true facts and circumstances of the suit. Her evidence is essential for the just and proper adjudication of the issues involved in this suit. Hence, it has become necessary to summon her through this Hon'ble Court and examine her as a witness on behalf of the Defendant. If this petition is not allowed, the petitioner will be put to irreparable loss, hardship, and serious prejudice. On the other hand, no prejudice or hardship whatsoever will be caused to the Plaintiff if this petition is allowed. It is, therefore, most humbly prayed that this Hon'ble Court may be pleased to issue summons to the said witness, Mrs. Latha, W/o. Velmurugan, through Court and permit her to be examined as a witness on behalf of the Defendant, and thus render justice.

A memo has been filed seeking to adopt the counter-statement filed in IA 8/26; summary of the counter-statement found in IA 8/26.

3. The petitioner's petition is unsustainable in law and on the facts of the case. None of the reliefs sought by the petitioner can be granted. As the averments made in the petition are contrary to the truth, they are all denied and contested. Except for facts expressly admitted in this counter-statement, the petitioner is strictly bound to prove all other facts. The relief sought by the petitioner is neither legal nor valid. The Respondent/Plaintiff filed this suit against the Petitioner/Defendant seeking recovery of money based on a promissory note executed in 2019. This suit has been pending for the past seven years. In the said suit, the Plaintiff's first witness was examined on 06.04.2022. The second witness was subjected to cross-examination on 06.06.2023. Subsequently, the proof affidavit of the Defendant's first witness was filed on 20.06.2023, and cross-examination was conducted thereon.

4. In the meantime, for the past two years, the petitioner/defendant has been filing various petitions and deliberately delaying the trial of the suit. By filing numerous petitions seeking the examination of persons unconnected or irrelevant to the suit, he has been unnecessarily wasting the Court's time and harassing the

plaintiff's side. No documents have been filed to substantiate the reasons cited in the petitioner's affidavit. Furthermore, the affidavit fails to explain the necessity or provide clear grounds for examining the witnesses he has requested. Similarly, the relief sought in this petition has not been clearly described. Consequently, it is evident that this petition lacks any legal basis and has been filed with the ulterior motive of dragging out the proceedings and harassing the plaintiff. Therefore, this petition is dismissed in limine. Moreover, the petitioner has not approached this Court with "clean hands"; his actions and conduct have been neither fair, honest, nor realistic. It is, therefore, humbly prayed that this Honorable Court graciously considers all the aforementioned grounds, dismisses the petitioner's petition, and awards costs to the respondent in the interest of justice.

5. No documents or oral evidence let by both sides.

6. **Point for determination:**

1. Whether this petition is allowed or not ?

Point No.1.

7. Arguments from both sides were heard, and the documents were examined. On behalf of the petitioner, a request was made to issue a witness summons to one Latha, and to pass an order directing her to mark documents and testify. During his arguments, the learned counsel for the respondent submitted that the respondent (Plaintiff) had filed a suit against the petitioner (Defendant) in 2019 seeking recovery of money based on a promissory note, and the suit has been pending for the past seven years. He pointed out that in the said suit, the Plaintiff's first witness was examined on 06.04.2022, the Plaintiff's second witness was cross-examined on 06.06.2023, and the Defendant's first witness filed an affidavit on 20.06.2023 and was cross-examined by the Plaintiff. He further argued that for the past two years, the petitioner (Defendant) has been causing delays by filing multiple petitions

specifically by seeking to examine a person unconnected to the suit thereby deliberately stalling the proceedings; he therefore urged the court to dismiss the petition.

8. This suit was filed in 2019 and has remained pending for seven years till date. An ex-parte decree was passed on 15.09.2020 but was subsequently set aside on 29.11.2021 pursuant to I.A. No. 80/2021. Following a hearing date on 02.02.2022, the plaintiff's side evidence concluded on 13.06.2023; the suit then remained pending for the defendant's side evidence from 16.06.2023 until that evidence finally concluded on 06.01.2024. While the suit was posted for arguments on 12.01.2024, the petitioner filed I.A. No. 04/2024; this petition was allowed on 24.01.2025, and the suit was adjourned to secure documents from the police. Subsequently, after a letter was submitted on 27.03.2026 stating that the police records had been destroyed, the suit was adjourned for further evidence of the defendant. The Inspector of the Sholavandan Police Station was examined as D.W. 2, but when the suit was again posted for further evidence of the defendant on 29.04.2026, neither the defendant nor their counsel appeared; consequently, the court suo motu closed the defendant's side evidence and posted for arguments on 03.06.2026, at which stage the petitioner filed the present petition, which remains pending. The argument advanced by the learned counsel for the respondent that the petitioner filed this petition with the intention of delaying the proceedings is indeed tenable. This suit has been pending for over seven years; furthermore, it was originally filed to recover a loan amount. The petitioner has submitted that a loan of Rs. 3 lakhs was obtained from Latha (wife of Velmurugan) and that, as security, an undated promissory note bearing a signature, two undated cheques bearing a signature, and the title deed of a vacant plot were handed over with the promissory note in question being the one involved in this suit. Consequently, the petitioner has requested an order to examine Latha as a witness for the defense. Considering the need for a comprehensive decision of the case and in the interest of

justice, this Court is of the view that the petitioner's petition may be allowed subject to the payment of costs in light of the aforementioned reasons.

In the result, this Court ordered that the petitioner should pay a sum of Rs. 2,000/- as costs to the respondent by directly on or before 07.07.2026, failing which the petition will stand dismissed. Call On 08.07.2026

Dictated by me, directly typed by Stenographer into computer, corrected and pronounced by me in the open Court, this the 1st day of July, 2026.

Additional District and Sessions Judge,
Periyakulam.

Petitioner side Witnesses and Documents: Nil.
Respondent side Witnesses and Nil.
Documents:

Additional District and Sessions Judge,
Periyakulam.

Additional District and
Sessions Court,
Periyakulam, Theni District.
Fair: Order
IA.No.09/2026
- in -
OS.No.78/2019
Dated 01.07.2026.