

**IN THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE,
TIRUPPUR.**

Present: Dr. V. Sree Vidya,
Principal Subordinate Judge, Tiruppur

Monday, the 6th day of April, 2026

**I.A.No. 21 /2026 and I.A.No. 22 /2026 in
OS.No.181/2015**

I.A.No. 21 /2026 in OS.No.181/2015

Rajalakshmi ... Petitioner / 1st Defendant
Vs .

1. Manoj
2. Prasanth (Died),
3. Rajendrakumar
4. Vani
5. Chithira

... Respondents / Plaintiffs

I.A.No. 22 /2026 in OS.No.181/2015

Chitra Vs. .. Petitioner / 3rd defendant

- 1) R. Manoj,
- 2) Gokul Prasanth (Died)
- 3) Rajendrakumar

.. Respondents / Plaintiffs

On 23.03.2026, these petitions came up before me in the presence of Thiru.C.M. Arunachalam, Counsel appearing for the petitioner in I.A. No.21/2026, Thiru.N.V. Giri, Counsel appearing for the petitioner in I.A. No.22/2026 and Thiru.S.Devarajan, Counsel appearing for the respondents in both the petitions and upon perusing the connected records, having stood over for consideration, this Court delivers the following:

Common OrderI.A.No. 21 /2026 in O.S.No.181/2015

Petition is filed under Section 151 of the Code of Civil Procedure to order to re-open the petitioner / 1st defendant's side evidence which was closed on 06.03.2026.

2. Case of the Petitioner/ 1st defendant in I.A.Nos. 21/2026 in brief reads as follows:-

The petitioner is the 1st defendant in the suit. The respondents / plaintiffs herein have filed the above suit for partition of suit property. When the suit was posted to 06.03.2026 for examination of the petitioner, she was not able to appear before the Court, since she was not doing well, was admitted in Matheswari Hospital as in patient for the period from 28.02.2026 and 06.03.2026 and the evidence on her side was closed on 06.03.2026. Her absence was neither negligent nor careless and she has a valid defence in the case. Hence, it is just and necessary that the evidence on her side has to be reopened, otherwise she will be prejudiced. Hence, the petition.

3. Case of the respondents / plaintiffs in brief from their Counter statement reads as follows:-

It is false to state that the evidence on the side of the petitioner was closed on 06.03.2026 and the same has to be reopened. The main suit was filed in the year 2015 and has been pending for more than 10 years. Now the petitioner has filed this petition with a malafide intention to drag on the proceedings. If the petition is allowed, the petitioner would be prejudiced and hence, the petition is liable to be dismissed with cost.

I.A.No. 22 /2024 in O.S.No.181/2015

4. Petition is filed under Section 151 of the Code of Civil Procedure to order to examine further witnesses i.e. the attestors of registered Will; dated:14.03.2005 and the registered Settlement deed; dated: 23.08.2007 on

the side of the petitioner / defendant No.3.

5. Case of the Petitioner/ 3rd defendant in I.A.Nos. 22/2026 in brief reads as follows:-

The petitioner is the 3rd defendant in the suit. The respondents / plaintiffs herein have filed the above suit for declaration, partition and separate possession. On 27.02.2026, this Court has passed order as no further evidence on the side of the petitioner / defendant No.3, closed the same and posted the case to 02.03.2026 for evidence on the side of other defendants. On 6.03.2026, this Court has reserved the case for judgment. On 25.10.2025, the petitioner had met with an accident and got injured and had also produced medical reports before this Court. Since on 06.03.2026, she went for regular medical check-up, she could not able to appear before this Court to file reopen petition for examination of attesting witnesses on her side. In order to prove that item No.1 of the suit property is entitled to the petitioner, she has to examine the attesting witnesses in the registered Will and Settlement deed; dated: 14.03.2005 and 23.08.2007, respectively. She has a valid defence in the suit and hence, the petition.

6. Case of the respondents / plaintiffs in brief from their Counter statement reads as follows:-

It is false to state that the evidence on the side of the petitioner was closed on 27.02.2026 and the same has to be reopened. It is not denied that the suit was posted to 06.03.2026 for judgment. It is denied that the petitioner had met with a road accident on 25.10.2025 and was taking treatment in hospital. To prove the same, she has not produced any medical documents with the petition. It is also denied that since the petitioner went for regular medical check up on 06.03.2026, she could not attend the Court. The averment that in order to prove that item No.1 of the suit property is entitled

to the petitioner, she has to examine the attesting witnesses in the registered Will and Settlement deed; dated: 14.03.2005 and 23.08.2007, respectively is denied as false. The petitioner has not filed the list of witnesses and documents on her side in advance and no reason was mentioned in the petition for her failure to do so. The main suit was filed in the year 2015 and has been pending for more than 10 years. Now the petitioner has filed this petition with a malafide intention to drag on the proceedings. If the petition is allowed, the petitioner would be prejudiced and hence, the petition is liable to be dismissed with cost.

7) The Points for consideration are

1) Whether the evidence on the side of 1st defendant is to be reopened?

2) Whether the evidence on the side of 3rd defendant is to be reopened for examination of further witnesses i.e. attesting witnesses in the registered Will and Settlement deed; dated: 14.03.2005 and 23.08.2007, respectively?

8) No oral or documentary evidence was let in from both side.

9) Points No.1 and 2 :-

Both side heard. Records perused. Suit is for the relief of declaration, partition and separate possession. The petitioner in I.A. No.21/2026 and I.A. No.22/2026 are the defendants No.1 and 3, respectively and the respondents in both the petitions are the plaintiffs in the suit. The petitions have been filed by the petitioner seeking for reopen of the suit since the defence was closed by this Court. The petitioner is seeking to reopen this case for the purpose of examination of additional witnesses on behalf of the defendants' side to prove Will which has been propounded by the defendant. Even though the Will has been propounded by the defendant, the same has

been disputed by the plaintiff and the suit is filed for partition of the suit properties and to allot shares to the plaintiffs. While so, in the above circumstances, it is incumbent upon the defendants to prove the Will and the settlement deed which they relied upon in order to seek the ends of justice. In the present circumstances, the Court had already closed the defendants' side witnesses as the case was of the year 2015 even though this petition has been filed by the petitioner / defendant seeking chance that he may be permitted to put forth the witnesses in order to prove his settlement deed and the Will. In the above circumstances, this Court on hearing the petitioners and the respondents in the case had come to the conclusion even though the defence was closed by the Court, it is necessary that the examination of witnesses pertaining to the Will as a legal constrain embodied in Sec.66 and 68 of the Indian Evidence Act. Whereas when the statutory provisions so mandate examination of the attesting witnesses for proof of documents, this Court cannot stand in the way of the defendants' case and hence, in the interest of justice and also for throwing light upon the case with regard to the execution of the Will and the settlement deed, this Court is constrained to reopen the case and to give one more chance as the last chance to the petitioners / defendants to produce their witnesses. Accordingly, the points are answered.

In the result, the Petitions in I.A.No.21/2026 and I.A.No.22/2026 in O.S.No.181/2015 are allowed.

Dictated to the Steno-typist, typed by her as directly on Computer, corrected and pronounced by me in the open Court, dated this the 6th day of April, 2026.

Principal Subordinate Judge,
Tiruppur.

I.A. Nos. 21/2026 & 22/2026

List of witnesses & exhibits on both sides: Nil

Principal Subordinate Judge,
Tiruppur.

Draft / Fair Common Order
I.A. No.21/2026 and
I.A. No.22/2026 in
OS No.181/2015
Dt:06.04.2026
PSJ Court, Tiruppur.