

IN THE COURT OF SUBORDINATE JUDGE : LALGUDI

Present : Tmt.R.Mohana, B. L.,

Subordinate Judge,

Dated Wednesday, the 06th day of August 2025

IA.No.3/2025 in OS.No.163/2019

(CNR No.TNTP0007892019)

A. Balan

..petitioner/defendants

- Vs -

V. Anjai Vinoth

..Respondent/plaintiff.

This petition is came up for final hearing before me on 08.07.2025 in the presence of Thiru.J.Ilayaraj Advocate for petitioner and of Thiru.G.Johnson Advocate for respondent and heard the both side and upon perusing this case records and having stood over for consideration till this day, today this Court delivers the following.....

ORDER

1. The Petitioner/defendant has preferred this Petition under Section 151 CPC, to reopen the Plaintiff side evidence, for enabling him to cross examine the PW1.

2. It is submitted by the Petitioner that the Petitioner/defendant who has not admitted the execution of sale agreement and he has not received any amount as alleged by the respondent/Plaintiff in the main case. Due to the reason of illness and living without any assistance, he was not able to move outside of the house and contact his counsel for enabling him for cross examining the PW1 and due to that reason, the PW1 evidence was closed on 09.09.2024. The contention raised by the respondent in the plaint, are all denied as false and the detailed written statement may be treated as part and parcel of this Petition. If the Petitioner who is not permitted to cross examine PW1,

he will be put to irreparable loss and hardship and hence this Petition is filed.

3. It is submitted by the respondent in his Counter that the averments that are made in the Petition and affidavit are all denied as false. In spite of several hearings were adjourned for cross examination of PW1, the Petitioner/defendant who was not turned to cross examine on the day fixed by this Court. The Hon'ble Court has already granted sufficient time for cross examination of PW1 and the Petitioner who was not ready to cross examine the PW1 and hence there is no merits in this Petition and this Petition may be dismissed with cost.

4. Both side heard. Case Records Perused. This is suit for specific performance for seeking direction, to execute the sale deed as per the sale agreement said to be executed between the parties. The execution of sale agreement is denied by the Present Petitioner /defendant.

5. On perusal of case records, though the trial has commenced on 08.11.2023 by examining the power agent of the Plaintiff as PW1, he was not present in the next several hearings. But, on 03.04.2024, the present Petitioner/defendant was not ready for cross examining, while the PW1 was present on the day only. For that reason, the PW1 cross was closed for not cross examination on the side of the Petitioner/defendant.

6. This Court is of the opinion that the PW1 was not turned to appear before the Court for cross examination from the day of taking chief examination till the previous hearing of the day on 03.04.2024. Hence, considering the absence of PW1 and the

reasons mentioned in the affidavit of this Petitioner, it is necessary to give the opportunity to cross examine the PW1 for disproving the contention raised by the Plaintiff and to decide the case on merits and hence this Petition is deserved to be allowed.

In the result, this Petition is allowed. No cost. Permitted to reopen the Plaintiff side evidence.

Dictated to the Steno-Typist, typed in computer by her, corrected and pronounced by me in Open Court, on this the **06th** day of **August 2025**.

Sd./-Tmt.R.Mohana, B. L.,
Subordinate Judge,
Lalgudi.

List of Documents

List of Petitioner side witness and Documents - Nil

List of Respondent side Witness and Documents - Nil

Sd./-Tmt.R.Mohana, B. L.,
Subordinate Judge,
Lalgudi.

Subordinate Court
Lalgudi.

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Fair /Draft order

Date : 06.08.2025