

**III ADDITIONAL DISTRICT AND SESSIONS COURT  
TIRUVALLUR AT POONAMALLEE**

Present : **Thiru.C.VIJAYAKUMAR, B.A., B.L.,**  
III Additional District and Sessions Judge

**Wednesday, the 8<sup>th</sup> day of April 2026**

**I.A.No.3/2025 in O.S.No.490/2022**

1) B. Dharanikumar, S/o. Balaraman,  
No.43/129, Baraka 1<sup>st</sup> Street, Namalwarpet,  
Perambur Barracks, Chennai – 600 012.

2) Kanchana Devi, W/o. B. Dharanikumar,  
No.43/129, Baraka 1<sup>st</sup> Street, Namalwarpet,  
Perambur Barracks, Chennai – 600 012.

..Petitioners / Defendants

//Vs//

1) V. Dineshkumar, S/o. Vedavinayagam,  
No.41, 1<sup>st</sup> Cross street, Manthoppu,  
Cholambedu Road, Krishnapuram Extension,  
Ambattur, Chennai – 600 053.

2) V. Santhosh Kumar, S/o. Vedavinayagam,  
No. 799/74, CTH Road, Thirumullaivoyal,  
Chennai – 600 012.

..Respondent / Plaintiff

This petition came up before this Court for final hearing on 12.03.2026 in the presence of M/s. S. Balamurugan learned counsel for the Petitioners / Defendants, M/s. P.S. Mathisekaran learned counsel for the Respondent / Plaintiff and upon hearing both side arguments and having stood over for consideration till this day, this court passed the following:

**ORDER**

The Defendant in the suit has filed this petition under Section 151 of CPC and prayed to reopen the plaintiff side evidence for the cross examination of PW1 cross and reopen the defendant side evidence for production of defendant side evidences.

**2) The averments made in the affidavit filed by the Petitioner / Defendant in support of the petition are briefly as follows:-**

The 1<sup>st</sup> petitioner/ 1<sup>st</sup> defendant submitted that the respondent/plaintiff had filed the suit for recovery of possession against them and that the case had been posted for the cross-examination of the plaintiff (PW1) on 02.12.2024. However, the defendant claimed he was suffering from a viral fever on 28.11.2024, which prevented him from meeting with his counsel to discuss the cross-examination. Consequently, the counsel did not cross-examine PW1 and allegedly failed to inform the defendant of the proceedings despite requests. Due to the lack of cross-examination, the court closed the plaintiff's side of the evidence, as well as the defendant's evidence, and posted the matter for arguments on 09.04.2025. The defendant asserted that he was not given a fair opportunity to substantiate his case, despite having a strong chance of success. Therefore, requested that the court re-open the evidence of plaintiff side for the cross examination of pw1 and for defendnat side evidence. Hence, the Petition.

**3) The averments made in the Counter statement filed by the Respondent / Plaintiff are briefly as follows:-**

The Respondents submitted that the petitioners were tenants, the suit originally filed for recovery of possession and rent arrears. The Respondent further stated that despite an agreed monthly rent of Rs.50,000, the petitioners had willfully failed to pay, accumulating arrears of Rs.26 lakhs during the pending suit. He contended that the petitioners' claims lacked merit and were filed solely to remain on the property without payment. To test the defendants' honesty, he requested the court to direct them to deposit Rs.26 lakhs in arrears. Hence, the Petition is liable to be dismissed.

4) On the side of the Petitioner/ Plaintiff and Respondents/ Defendants, no witnesses were examined and no documents were marked.

5) **The point arising for consideration is whether the petition has to be allowed or not ?**

6) **Point:**

Heard both sides. Perused the documents.

7) The above suit is filed by the Respondent / Plaintiff seeking recovery of possession and for arrears of rent against the Petitioners / Defendants. After settlement of Issues the Plaintiff No1 examined himself as PW1 and Ex.A.1 to Ex.A.13 were marked through him. Presently, this suit was posted for Arguments. Now, the Petitioner / Defendant filed this petition to reopen the

plaintiff side to cross examine the PW1 and defendnat side for producing their side evidence .

**8)** In the absence of any provision providing for reopening of evidence or recall of any witness for further examination or cross-examination, for purposes other than securing clarification required by the court, the inherent power under Section 151 of the Code, subject to its limitations, can be invoked in appropriate cases to reopen the evidence for further examination.

**9)** In the present case, the petitioner stated that, he was suffered with viral fever which prevents him to discuss the points with his counsel before the cross examination of PW1. So as, his counsel has not cross examined the PW1. To establish his case, he seeking permission to cross examination of PW1 and to produce defendant side evidence.

**10)** In these circumstances, to ensure a fair trial, it is essential to give the parties a full opportunity to produce the evidence and documents they rely on. This will assist the Court in effectively deciding the facts in issue. Therefore, in order to balance equities and to prevent prejudice to the petitioner, this Court is inclined to allow this petition.

**11)** In the result this petition is allowed ordered to reopen the palintiff and defendant side to cross PW1 and to produce defendnat side evidence. The petitioner is direccted to pay a cost of Rs2000/- to the respondent for the

inconvenience caused to them within a period of one month .The payment of cost is not a pre condition for this application.

Dictated to the Steno-typist directly, typed by him in the computer, corrected and pronounced by me in the open court, this the 8<sup>th</sup> day of April 2026.

**III Additional District and Sessions Judge,  
Tiruvallur at Poonamallee.**

**Both side Witnesses and Exhibits : NIL**

**III Additional District and Sessions Judge,  
Tiruvallur at Poonamallee.**