

**IN THE COURT OF THE DISTRICT MUNSIF, THIRUVOTTIYUR**

**Present:** Thiru.R.Revanth., B.A.,L.L.B.,(Hons.)  
District Munsif,  
Thiruvottiyur  
Monday, this the 17<sup>th</sup> day of November 2025

**E.A. No.04/2025**

**in**

**E.A.173/2018**

**in**

**E.P.No.10/2016**

M. Anjalatchi

...Petitioner /Respondent/Obstructer

//Vs//

1. Arulmighu Pidari Ayiram

Kathal Koil, Manali,

Rep.by its Trustee G.Manivel

....1<sup>st</sup> Respondent /Petitioner/Decree Holder

2. P.Mathialagan

....2<sup>nd</sup> Respondent/ Respondent/ Judgment

Deptor

3. Chitra

....3<sup>rd</sup> Respondent/Respondent /Obstructer

This petition came up on 06.11.2025 for final hearing before me in the presence of M/s.R.Gopala Krishnan and N.Vivek Learned counsels for Petitioner /Respondent/Obstructer and M/s.R.Dhamodaran and M.R.Arulmozhi Learned counsels for the 1<sup>st</sup> Respondent /Petitioner/Decree Holder and 2<sup>nd</sup> and 3<sup>rd</sup> respondents already set exparte in the execution petition and upon hearing enquiry on both side and having stood over for consideration till this date, this court made the following:

**ORDER**

This petition is filed by the petitioner Under Order 16 Rule 7 & 8 of CPC to direct the 1<sup>st</sup> respondent to give oral evidence before this Hon'ble Court.

**2. Brief averments of the petition/affidavit filed by the Petitioner****/Obstrucater in short are as follows:**

The petitioner states that he was well acquaint the facts and circumstances of this case. The petitioner filed this affidavit and petition for herself only. The O.S.No.184 of 2010 and this E.P mentioned property is **Schedule A:-** All that part and parcel of land measuring an extent of 1.28.0 hectares (3.19 acres) in S.No.191/2 of No.41, Manali Village of Ambattur Taluk, Thiruvallur District. **Schedule B:-** Being part of S.No.191/2, measuring an extent of 596 sq.ft at Manali village being bounded on the North by Bus Terminal on the South by Vacant land belonging to the plaintiff temple, on the East by vacant land belonging to the plaintiff temple and on the west by Kamaraj Street, measuring 23' on the North 30' on the south 22' on the east and 23' on the west in all measuring 596 sq.ft.

The petitioner further states that the 1<sup>st</sup> respondent filed O.S.No.184 of 2010 as against the 2<sup>nd</sup> respondent seeking prayers of "for permanently restraining the defendant, the agent or anybody on his behalf from trespassing or interfering with the peaceful posesion of the suit "B" schedule property and Mandatory injunction against

the defendant to remove the superstructure put up by 2<sup>nd</sup> respondent in suit B schedule property after the institution of the suit. The 1<sup>st</sup> respondent filed above suit on capacity of Trustee in Arulmighu Pidari Kathal Koil at Manali. And in the above suit plaint the 1<sup>st</sup> respondent stated that above mentioned property is belongs to said temple and above temple acquired this property through one order dated 20.08.77, order passed by Deputy Commissioner of H.R & C.E in O.A No.16/76. The 1<sup>st</sup> respondent has marked above said order dated 20.08.77 as Exhibit-1 and marked some other documents also he was not a party in the above suit for which he unable to verify said Exhibits and had not been get opportunity to cross examine the 1<sup>st</sup> respondent. After getting notice of this E.P he has immediatly applied CA before this court but unfortunately all said exhibits were already returned to the 1<sup>st</sup> respondent for which he unable get above certified copies. The above suit mentioned property is classified as "Anathinam Purambokku" to prove the same he has already marked Government order dated 30.09.1989 in this E.P. Hence this petition.

**3. Brief averments of the counter filed by the 1<sup>st</sup> Respondent/Decree Holder in short are as follows:**

The 1<sup>st</sup> respondent states that the petitioner who is the rank outsider in the suit and an obstrucater in the E.P.No.10 of 2016, has taken out this application under Order XVI Rule 7 and 8 of CPC stating that she has already "marked" one Government

order dated 30.09.1989 in the E.P. without mentioning the document number and the details regarding the said Government order. The petitioner states that the averment in para 8 of the affidavit that "the suit mentioned property is classified "Anathinam Porambokku" vide the said Government order dated 30.09.1989, whereas the plaintiff/ decree holder has obtained patta No. 9143 for the entire suit land comprised in S.No.191/2 of Manali Village on 04.11.2009 and land kist was also being remitted by the plaintiff upto Fasli year 1419. But the petitioner/obstructor is relying on an alleged Government order which was issued on 30.09.1989 i.e. 20 years prior to the issuance of patta by revenue authorities to the plaintiff, which is quite strange. Further the petitioner/obstructor also says that the property was classified as "Anathinam Porambokku" in the said Government order. The petitioner/obstructor was not keeping abreast of the subsequent developments after 30.09.1989 culminating in the issuance of patta in the year 2009 which was not challenged by anybody including the petitioner/obstructor herein. The petitioner/obstructor is still clinging to an obsolete Government order issued in the year 1989 forgetting the fact that much water has flown under the bridge since then. The petitioner/obstructor has also not stated in her affidavit as to whether the mere classification of the suit land in the year 1989 could take away the right of enjoyment armed with patta No. 9143 which was issued after proper enquiry and verification by the Revenue authorities in favour of the plaintiff in the year 2009. Further, the petitioner has prayed the Hon'ble

Court to direct the 1<sup>st</sup> respondent/plaintiff to give oral evidence without furnishing any reasons for directing the 1<sup>st</sup> respondent/plaintiff to give oral evidence. The petitioner/obstructor being a third party to the main suit and also without having any documentary evidence in her favour, has sought for direction against the respondent/plaintiff which is quite preposterous. When the petitioner/obstructor wants to mark a document on her behalf there there is no necessity to ask for such a direction against the 1<sup>st</sup> respondent/plaintiff. The plaintiff's deposition was over long back in the main suit and the suit was decreed as prayed for by the plaintiff on 23.12.2014. The plaintiff cannot now be brought into the witness box in connection with a matter not at all related to him and also not within his knowledge. The Apex Court in so many cases have categorically held that "As a matter of fact, a party cannot have the opposite party examined as a witness". Hence the 1<sup>st</sup> respondent prayed to dismiss the E.A.No.4 of 2025 in E.A.No.173 of 2018 in E.P.No.10 of 2016.

4. Now the point for consideration is whether the petition Under Order 16 Rule 7 & 8 of CPC is to be allowed or not?

5. There is no oral and documentary evidence for both side parties. Arguments submitted by both side counsels are heard. Case records perused. This petition is filed by the petitioner to direct the 1<sup>st</sup> respondent to give oral evidence.

6. According to the petitioner, the 1<sup>st</sup> respondent filed above suit O.S.No.184/2010 on capacity of Trustee in Arulmighu Pidari Kathal Koil at Manali and in the above suit plaint the 1<sup>st</sup> respondent stated that above mentioned property belongs to said temple and above temple acquired this property through one order dated 20.08.77, order passed by Deputy Commissioner of H.R & C.E in O.A No.16/76. The petitioner stated that the 1<sup>st</sup> respondent has marked above said order dated 20.08.77 as Exhibit-1 and marked some other documents and also the petitioner/obstructor was not a party in the above suit for which he was unable to verify said Exhibits and had not been get opportunity to cross examine the 1<sup>st</sup> respondent. The petitioner further stated that after getting notice of this E.P he has immediately applied copy Application before this court but unfortunately all said exhibits were already returned to the 1<sup>st</sup> respondent for which he unable get above certified copies. The petitioner stated that the above suit mentioned property is classified as "Anathinam Purambokku" to prove the same he has already marked Government order dated 30.09.1989 in this E.P.

7. Per contra the 1<sup>st</sup> respondent contended that the petitioner has prayed the Hon'ble Court to direct the 1<sup>st</sup> respondent/decree holder to give oral evidence without furnishing any reasons for directing the 1<sup>st</sup> respondent to give oral evidence. The 1<sup>st</sup> respondent further contended that when the petitioner/obstructor wants to mark a document on her behalf there is no necessity to ask for such a direction against the 1<sup>st</sup> respondent/plaintiff.

8. On perusal of records, this petition is filed by the petitioner/obstructor for direction to 1<sup>st</sup> respondent to give oral evidence. It is pertinent to note that the petitioner failed to furnish reasons for directing the 1<sup>st</sup> respondent to give oral evidence. Hence this court is of the opinion that the petitioner is not entitled for the relief as prayed for.

**In the result, this petition is dismissed. No costs**

Dictated directly to the steno-typist, typed by her in the computer, corrected and pronounced by me in open court, this the 17<sup>th</sup> day of November 2025.

District Munsif,  
Thiruvottiyur.

**List of exhibits and witnesses on both sides: NIL**

District Munsif,  
Thiruvottiyur.