

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

**Present : Tmt. R.D. Gurulakshmi, M.A., M.L., P.G.D.I & C.L.,
District Munsif, Tiruttani.**

Dated the Wednesday of 17th Day of June 2026

I.A.No.6/2026 in OS.No.77/2022

(CNR.No.TNTR21-000106-2022)

1. Vanitha

2. Vijayakumar

... Petitioners /Defendants 1 & 2

/Versus/

1. J. Devi

... 1st Respondent/ Plaintiff

2. Chellappa Reddy

... 2nd Respondent/ 3rd Defendant

This petition came up before me for the final hearing on 12.06.2026 in the presence of M/s. M. Baskar, Advocate for Petitioners/Defendants 1 & 2, M/s. M.Sureshkumar, S. Karthikeyan, E. Thanigairaj, Advocates for 1st Respondent/ Plaintiff, 2nd Respondent/ 3rd Defendant was remained exparty. Upon hearing both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

This petition is filed under Order XVI Rule 12 of CPC to impose a fine against the witness for committing of disobedience of this court order.

1. The averments of the petition in brief are as follows:-

The petitioner filed witness batta for 3rd defendant herein. Witness batta was duly served to the 3rd defendant. But the 3rd defendant failed to appear before this court on 26.03.2026. The 3rd defendant is the father of 1st respondent/plaintiff. If he came to the box, he may reveal all the facts about the suit property and it may sort out all the issues in respect of the suit property. Hence his evidence is utmost require to prove the true facts of the case. Therefore the petitioner filed this petition.

2. The counter filed on behalf of the 1st Respondent in brief:-

This petition is not maintainable either in law or on facts of the case. The petitioner filed this petition only to drag on the proceedings of this case. This

application is not prima facie one. Hence this petition is liable to be dismissed.

3. Point for determination:

Whether the petitioners are entitled to the relief as sought for? or not?

4. Heard both sides. According to petitioner, the petitioner filed witness batta for 3rd defendant. Witness batta was served to the 3rd defendant. But the 3rd defendant failed to appear before this court. The evidence of 3rd defendant is utmost require to prove the true facts of the case. Hence the petitioner prays to allow this petition. The 1st Respondent resisted the petition by contending that the petitioner filed this petition only to drag on the proceedings of this case. Hence the respondent prays to dismiss this petition.

5. On perusal of record, on 17.03.2026 this case was posted for defendant side further evidence. On that day the petitioner filed witness batta for 3rd defendant who remained exparty in main suit. On 26.03.2026 witness summon returned as refused. Further witness also not appeared before this court. In this stage petitioner filed this petition to impose fine upon the 3rd defendant for committing disobedience of this court order.

6. On perusal of record, the witness summon sent through court and post. Court summon returned as refused and postal summon returned as unclaimed. **Order XVI, Rule 10 (2) and (3) of Code of Civil Procedure, read as follows:**

“10. Procedure where witness fails to comply with summons. – (2) Where the Court sees reason to believe that such evidence or production is material, and that such person has, without lawful excuse, failed to attend or to produce the document in compliance with such summons or has intentionally avoided service, it may issue a proclamation requiring him to attend to give evidence or to produce the document at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door or other conspicuous part of the house in which he ordinarily resides.

(3) In lieu of or at the time of issuing such proclamation, or at any time afterwards, the Court may, in its discretion, issue a warrant, either with or without bail, for the arrest of such persons, and may make a order for the attachment of his property to such amount as it thinks fit, not exceeding the amount of the costs of attachment and of any fine which may be imposed under Rule 12:

In this case, neither witness appeared nor any reasons for non appearance is submitted on behalf of witness. Hence it is necessary to take steps as provided under

Order 16 Rule 12 of CPC.

Order XVI, Rule 12 of Code of Civil Procedure, read as follows:

“12. **Procedure if witness fails to appear.** – (1) The Court may, where such person does not appear, or appears but fails so to satisfy the Court, impose upon him such fine not exceeding five hundred rupees as it thinks fit, having regard to his condition in life and all the circumstances of the case, and may order his property, or any part thereof, to be attached and sold or, if already attached under Rule 10, to be sold for the purpose of satisfying all costs of such attachment, together with the amount of the said fine, if any;

As per of Order XVI, Rule 12 of CPC this Court have power to proceed against the witness for his non-obdience. Hence, considering the facts and circumstances, this court is of considered view that this petition has to be allowed.

In the result, this petition is allowed. No cost. Issue show cause notice to the witness. Call on 29.06.2026.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 17th day of June 2026.

District Munsif,
Tiruttani.

Petitioners and Respondents side Exhibits and witness: NIL

District Munsif,
Tiruttani.