

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 Friday of 8th Day of August 2025

I.A.No.11/2025 in OS.No.92/2021

(CNR.No.TNTR21-000104-2021)

...

K. Gajendra Chetty

... Petitioner/Plaintiff

/Versus/

1. T.S. Venkatesan
2. The District Collector, Tiruvallur
3. The Revenue Divisional Officer, Tiruttani
4. The Tahsildar, Tirutani Taluk
5. The Superintendent of Police, Tiruvallur District
6. The Deputy Superintendent of Police,
Special Cell, Land Grabbing, Tiruvallur District
7. The Inspector, Special Cell,
Land Grabbing, Tiruvallur District

... Respondents/Defendants

This petition came up before me for the final hearing on 31.07.2025 in the presence of M/s. G. Kamalakannan, Advocate for Petitioner/Plaintiff, M/s. V. Venkatesan, N. Balaji, P. Pichimani, D. Mani, Advocate for 1st Respondent/ 1st defendant, R2 to R7 were set exparty in suit. Upon hearing both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

The petition is filed by the petitioner under order 26 Rule 4 (4) of CPC to appoint an advocate commissioner to examine the Pw1 by the Plaintiff's Counsel and also through cross examination by the Defendants Counsel and file the report.

1. **Petition averments in brief:-**

(a) The case is posed for further examination of plaintiff. The Petitioner/ plaintiff is seriously affected kidney problems and viral infections. The Petitioner could not able to walk out of his home. He is taking frequent and daily treatment from doctors. The doctors advised not to use staircase since he had knee problem due to his age aliment. Now the case is posted for PW-1 chief examination. Due to the above reasons the petitioner could not able to attend and depose his side evidence. The petitioner have no scope to go anywhere to execute any deed to anybody to

prosecute his case, since the petitioner could not able to move. It is utmost required to prove through his personal attendance only.

(b) The petitioner had relevant medical records to show his illness. Hence the petitioner may be permitted to examine through appointing advocate commissioner to complete his evidence either in chief and well as cross examine in his home in the presence of respective counsels and submit his report before this court as stipulated time fixed by this court. If the permission is not given, the petitioner will be put to irreparable loss and hardship. The petitioner absence is neither willful nor wanton. Hence the petitioner filed this petition.

2. **Counter filed on behalf of the 1st respondent in brief:-**

(a) The petition is not maintainable either in law or on merits. The petitioner filed this vexatious petition without the proof of the allegations as alleged by the petitioner. The petitioner is owned one lodge opposite to this court in the name and style as K.G.H. The petitioner has come to his lodge daily and even then the petitioner proved the allegations alleged by him, this court may take evidence on the ground floor in the Hon'ble Judge room and there by this respondent will cross examine before this Hon'ble. There is no prejudice will be caused to the petitioner. The petition filed by this petitioner is only to dragging the proceedings. Hence this petition is to be dismissed in limini.

(b) This petition filed by the petitioner to appoint an Advocate commissioner to examine the PW1 is not maintainable. If the witness deposition taken his family members may quarreled at the time of cross examination. Hence the appointment of Advocate Commissioner to examine the witness is not maintainable. There is no bonafide and merits in the above petition. Hence, this petition has to be dismissed with costs.

3. **Point for determination:-**

Whether the petitioner is entitled to the relief as sought for or not?

4. **Point:-**

Heard both sides. According to the petitioner, due to petitioner's illness petitioner could not able to walk out of his home. The doctors advised not to use

staircase since he had knee problem due to his age ailment. Now the case is posted for PW-1 chief examination. Therefore the petitioner could not able to attend and depose his side evidence. Hence the petitioner prays to allow the petition.

5. The 1st Respondent resisted the petition by contending that this court may take evidence on the ground floor in the Hon'ble Judge room and there by this respondent will cross examine. If the witness deposition taken in the home of petitioner, his family members may quarreled with the counsel of respondent at the time of cross examination. The petition filed by this petitioner is only to dragging the proceedings. There is no bonafide and merits in the above petition. Hence, the 1st respondent prays to dismiss the petition with costs.

6. On the side of petitioner Ex.P1 to Ex.P4 were marked. Ex.P1 is the report of Ultra sound scan abdomen. Ex.P2 and Ex.P3 were medical prescription. Ex.P4 is the Blood investigations report. Since this case is pending for Pw1 evidence from 05.09.2024. Plaintiff he himself appeared before this court on 05.09.2024, 21.09.2024, 17.10.2024, 09.01.2025 and 03.04.2025. On 09.01.2025, 03.04.2025 this case adjourned on the request of petitioner that petitioner is not well and not in a state to give evidence. As per order in IA.9/2025 Pw1 was recalled for further examination in Chief. Considering the age of the petitioner and perusing the medical reports this Court is of view that an Advocate Commissioner has to be appointed for the examination of PW1 alone.

Hence, Mr. V.S.Velayudham, Advocate, Tiruttani is appointed as Advocate Commissioner to examination of Pw1 by the Plaintiff's Counsel and also through cross examination by the Defendants Counsel. The Advocate Commissioner is direct to record the both chief and cross and directed to file a report with the deposition of witness. The Remuneration for the Advocate Commissioner is fixed Rs.5,000/- which is payable by petitioner, further petitioner is directed to pay the remuneration for a sum of Rs.5,000/- to the Advocate Commissioner directly. Report call on 26.08.2025.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 8th day of August 2025.

District Munsif,
Tiruttani.

Petitioner side Witnesses :- Nil

Petitioner side Exhibits :-

1. Ex.P1 – 26.05.2025- Report of Ultra sound scan abdomen – Photo copy
2. Ex.P2 – 20.07.2025 - medical prescription – Photo copy
3. Ex.P3 – 22.06.2025 - medical prescription – Photo copy
4. Ex.P4 – 26.05.2025 - Blood investigations report – Photo copy

Respondents side Exhibits and Witnesses :- Nil

District Munsif,
Tiruttani.