

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE (FTC),
VELLORE, VELLORE DISTRICT.**

**PRESENT: Thiru.P.V.Sandilyan, M.L.,
Additional District Judge (FTC), Vellore.**

Monday, the 23rd day of February, 2026

I.A. No.1/2026 & I.A. No.2/2026

in

O.S. No.73/2023

Parties in I.A. Nos.1/2026 & 2/2026

A.Ganesan Petitioner/Defendant

Versus

1. G.Dhanapal
2. M.Selvi
3. M.Likitha
4. M.Abishek
5. Manoharan
6. G.Ravi
7. G.Vasanth
8. R.Savithiri
9. A.Kasthuri Respondents/Plaintiffs

These petitions came up before this court for final hearing on 18.02.2026, in the presence of Thiru.B.Palanisamy, Counsel for the Petitioner; Thiru.A.Ramesh, Counsel for the Respondents and upon hearing the arguments of both sides, upon perusal of case records and having stood over for consideration till this date, this court delivers the following:-

COMMON ORDER

Prayer in I.A. No.1/2026:

This petition has been filed by the petitioner under Order XVIII Rule 17 and Section 151 of C.P.C. to pass an order to re-call P.W.1 for cross examination of plaintiff's side and examination of defendants' side.

Prayer in I.A. No.2/2026:

This petition has been filed by the petitioners under Section 151 of C.P.C. to reopen the above case for cross examination of plaintiff's side and examination of defendant's side.

2. The brief averments of the affidavit in I.A. No.1/2026 are as follows:-

The petitioner is the defendant in the above suit which is pending at arguments stage. When the above suit was posted for P.W.1 cross at that time the petitioner was suffering from Viral Fever and he was unable to appear before this court and due to his non-appearance and nor conduct the P.W.1 cross this court closed P.W.1 cross and posted for defendants' cross and defendants' cross also closed and posted for arguments on 11.11.2025. The petitioner has got valid defense to prove his side in the above suit by P.W.1 cross and hence P.W.1 cross is very essential and important one. After cured his health condition, the petitioner met his counsel and came to know the above facts and his counsel advised him to file re-open petition and re-call P.W.1. Hence, this petition to re-

call P.W.1 for cross examination of plaintiff's side and examination of defendants' side.

3. The brief averments of the affidavit in I.A. No.2/2026 are as follows:-

The petitioner is the defendant in the above suit which is pending at arguments stage. When the above suit was posted for P.W.1 cross at that time the petitioner was suffering from Viral Fever and he was unable to appear before this court and due to his non-appearance and nor conduct the P.W.1 cross this court closed P.W.1 cross and posted for defendants' cross and defendants' cross also closed and posted for arguments on 11.11.2025. The petitioner has got valid defense to prove his side in the above suit by P.W.1 cross and hence P.W.1 cross is very essential and important one. After cured his health condition, the petitioner met his counsel and came to know the above facts and his counsel advised him to file re-open petition and re-call P.W.1. Hence, this petition to re-open the above case for P.W.1 for cross examination of plaintiff's side and examination of defendants' side.

4. The brief averments of the Counter filed by the 1st Respondent and adopted by the other respondents in I.A. No.1/2026 are as follows:-

The petition is not maintainable either in law or on facts of the case. The application is wilful, wanton and deliberately filed to harass the respondent. The docket orders maintained in the above case will reveal the same. The cross

examination of P.W.1 is coming for a long time from the year end of 2024 and the petitioner has not shown interest in cross examining and dragged on the proceedings. On 04.08.2025 this court closed the evidence of P.W.1 since the petitioner has not come forward. From 15.09.2025 it is coming for petitioner (Defendant) side evidence and even during that time also the petitioner has not shown interest in conducting the case. On 21.11.2025 the petitioner has filed the above application and rectified it subsequently and once again dragged 2 months time to get it numbered will prove the petitioner's interest in the case. There are no merits in the petition and prays to dismiss the petition with cost of the respondents.

5. The brief averments of the Counter filed by the 1st Respondent and adopted by the other respondents in I.A. No.2/2026 are as follows:-

The petition is not maintainable either in law or on facts of the case. The docket orders maintained in the above case will prove the petitioner's application is wilful, wanton and deliberately filed to harass the respondent. The cross examination of P.W.1 is coming for a long time from the year end of 2024 and the petitioner has not shown interest in cross examining and dragged on the proceedings. On 04.08.2025 this court closed the evidence of P.W.1 since the petitioner has not come forward. From 15.09.2025 it is coming for petitioner (Defendant) side evidence and even during that time also the petitioner has not shown interest in conducting the case. On 21.11.2025 the petitioner has filed the

above application and rectified it subsequently and once again dragged 2 months time to get it numbered will prove the petitioner's interest in the case. There are no merits in the petition and prays to dismiss the petition with cost of the respondents.

6. There is no oral evidence, no documents marked on both sides.

7. The point for consideration in these petitions are, ***whether these petitions to reopen the plaintiff's side evidence and to recall the plaintiff's side witness, P.W.1 for cross examination are to be allowed as prayed for?***

8. Point:-

8.1 The petitioner is the defendant in the main suit. Originally the suit filed by the respondents for the relief of partition and permanent injunction. The petitioner filed another suit in O.S. No.189/2021 against the respondents for the relief of declaration and consequential permanent injunction.

8.2 Originally P.W.1 was examined in chief on 16.10.2019 for non-appearance of the defendant, the defendant was set exparte on 06.12.2019. Thereafter set aside petition filed posted for cross examination of P.W.1. Meanwhile, the respondents filed reply statement, additional issues also framed, the suit was transferred to this court by way of order from Hon'ble Principal District Court. Later, the suit filed by the petitioner in O.S. No.189/2021 was also called with this suit and particularly on 12.06.2024 this court observed that joint trial is not possible and simultaneous trial was ordered. On perusal of

adjudication notes paper several opportunities were provided to the petitioner for cross examination of P.W.1. Lastly on 04.08.2025 P.W.1 cross examination was closed as 'No Cross examination by the defendant' and defendant's side also closed on 04.11.2025. The suit is for partition, the petitioner must be provided an opportunity to put forth his defence by cross examining P.W.1. Considering the nature of the suit being a partition, the petitioner is allowed to cross examine P.W.1. In the interest of justice both the petitions are allowed, thereby reopening the plaintiff's side evidence, for cross examination of P.W.1 and at the same time, the defendant is precluded not to involve delay tactics.

In the result, these petitions are allowed. No cost.

Dictated to the Steno-Typist, typed by him directly, corrected and pronounced by me in the open Court this the 23rd day of February 2026.

**Additional District Judge (FTC),
Vellore.**

Both side Witnesses and Exhibits:- - NIL -

**Additional District Judge (FTC),
Vellore.**