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SENTHILKUMAR RAMAMOORTHY, J.

This application is presented by the plaintiff for the production of the documents described under Annexure-A to the Judge's summons.

2. The applicant states that the suit is for damages for the unauthorised use of the plaintiff's land by the defendants. Therefore, it is stated that the sale deeds proposed to be exhibited are vital for establishing the value of the said land at the relevant point of time. The applicant/plaintiff further states that these documents were not available with the plaintiff and that they were obtained by P.W.2, who is an expert.

3. Both the first and second defendants have filed counters to this application.

4. The first defendant states that this application is liable to be rejected because the applicant has failed to establish reasonable cause for filing these documents at this juncture. The first defendant further states



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that the cross examination of P.W.1 was concluded and that the production of these documents causes great prejudice to the first defendant. The first defendant also states that these documents are third party documents and should not be permitted to be exhibited.

5. The second defendant states that these documents were available on 15.09.2021. In spite of the documents being available, they were not referred to in the proof affidavit of P.W.1, which was filed on 07.10.2021. The second defendant further states that if these documents had been made available before the conclusion of the cross examination of P.W.1, P.W.1 would have been cross examined in relation to these documents. Consequently, the second defendant states that the evidence of P.W.1 should be reopened so as to enable further cross examination of P.W.1.

6. The admitted position is that the cross examination of P.W.1 was concluded on 07.04.2022. By producing these documents at this juncture, the defendants have been deprived of the opportunity of cross examining P.W.1 on these documents. Therefore, the request made by the defendants to reopen the evidence of P.W.1 for further cross



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examination is acceded to. At the same time, since the suit is for damages, it appears that these documents may be relevant for the purpose of effectively prosecuting the suit. Therefore, in the circumstances, it is concluded that reasonable cause is made out subject to the rights of the defendants to cross examine P.W.1.

7. Accordingly, this application is allowed by issuing the following directions:

- 1) The evidence of P.W.1 is reopened and P.W.1 is recalled for further cross examination.
- 2) The applicant is permitted to exhibit these documents through P.W.2, subject to the objections by the defendants *inter alia* on the grounds of admissibility, relevance and proof.
- 3) After the conclusion of the evidence of P.W.2, P.W.1 shall be recalled for the limited purpose of further cross examination by the defendants on these additional documents.
- 4) Since P.W.2 is said to be available for examination in the week beginning 20th of June, the examination of P.W.2 shall be concluded between 22.06.2022 and 27.06.2022. The further cross



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examination of P.W.1 shall be done between 11.07.2022 and 15.07.2022.

8. List before the learned Additional Master-II on 22.06.2022 for recording evidence as per the above schedule.

9. List before this Court on 18.07.2022 to fix the schedule for examination of the defendants' witnesses.

17.06.2022



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17.06.2022