



WEB COPY

A No. 615 of 2
in C.S. No.90 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

A No. 615 of 2026

in C.S. No.90 of 2023

R.P.Darmalingam @ A.R.Dharmalingam

S/o late M.Ramakrishnan,

..Applicant(s)

Vs

S.Sekar S/o Mr.Suyambu NAdar,

..Respondent(s)

PRAYER: This application has been filed under Order XVI Rule 8 of Original Side Rules read with Order XXXI Rule 1 and Section 151 of Code of Civil Procedure praying to Record the cross examination of the Plaintiff as PW1 in the above suit by the Counsel for the defendant at the Plaintiffs residence at Plot No.1379C, Door No.15C, Golden Villa, 6th Street, I Block, Vallar Kudiyeruppu, 18th Main Road, Anna Nagar West, Chennai 600 040.

For Applicant(s):

M/s.T.M. Pappiah

For Respondent(s):

Mr. V. Manohar



ORDER

This application has been filed by the applicant to appoint an Advocate Commissioner to record the cross examination of PW1 in the above Suit.

2. According to the applicant, he is the Plaintiff in the main Suit, which is filed for claiming damages and for permanent injunction and already PW1 was examined in part and the chief examination was completed on 03.07.2025. Due to his health condition, he was unable to appear for cross examination. Therefore, the matter is pending for cross examination of PW1. Since the Plaintiff is aged about 67 years and not being well, suffering from Ortho problems, high blood pressure, lung infection and diabetes, he was unable to appear before this Court for his cross examination. Therefore, he has filed this application to appoint an Advocate Commissioner for cross examination of PW1.

3. The other side strongly objected to appoint an Advocate Commissioner to record the evidence of the witness. According to the respondent, already PW1 was examined in part and he was not present for his cross examination and only to delay the proceedings, this application has been filed by him. There is no merits in this application and hence prayed to dismiss the application.



4. Heard both sides and perused the records.

5. The applicant is the Plaintiff in the main Suit and already he was examined as PW1 and at the time of cross examination, he was not able to appear before this Court due to his health conditions. The applicant has also produced his medical certificate. There is no dispute that he is a Senior citizen aged about 67 years and therefore, considering the above said reasons, it is appropriate to allow this application by appointing an Advocate Commissioner to record the cross examination of PW1.

6. Accordingly, this application is **allowed**. **Ms. R.V. Gayathri, Advocate, Ph. No.95663 92824** is appointed as Commissioner to record the evidence of the witness PW1 in the main Suit. The learned Advocate Commissioner is directed to complete the recording of evidence, by fixing a particular date for cross examination, within one month from the date of receipt of Commissioner warrant. The parties are also directed to co-operate for the cross examination of PW1. The remuneration of the Advocate Commissioner is fixed at Rs.25,000/- (Rupees Twenty-Five Thousand only) and the said amount shall be paid directly to the Commissioner on the first day of recording of evidence.

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P.DHANABAL, J.

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