

IN THE COURT OF THE MUNSIF, ETTUMANOOR

Present: Miss. Annu Mary Jose., Munsiff

Thursday, the 19th day of March, 2026
28th day of Phalguna 1947

IA.No.3/2026 in OS. No. 50/2016

Petitioner:

Omana Jayan,
W/o. Jayakumar, Vallechalil House,
Ettumanoor P.O., Kottayam.

By Adv. E. M. Suresh.

Respondent :

Jisso K. Anand,
Theruvil Padinjattedath House,
Kazhimbram P.O.,
Valappad Village, Thrissur.

By Adv. Avaneesh V. N.

This petition has come up for hearing on 17.03.2026 and
the court on 19.03.2026 passed the following:-

O R D E R

This application is filed by the plaintiff to reopen evidence.

2. The averments in the affidavit filed in support of the application in brief are as follows:- The petitioner is the plaintiff in the above case. The plaintiff produced the statement of account of her and her husband's joint account. The same has to be marked so as to prove that the defendant and his father had transferred money to this account and the above amount was not given for the treatment of the defendant's mother. It is also prayed to mark the certified copy of deposition in O.S 26/2015 of the defendant in this case. Hence it is prayed to allow the application.

3. The respondent filed objection contending as follows: - The application is not maintainable. The deposition of DW1 in O.S 26/2015 cannot be marked through PW1 and it cannot be marked in its whole as per law. The plaintiff had earlier not pressed I.A 1379/2018 filed to recall PW1. So the above application is only filed to fill up the lacuna. Hence, it is prayed to dismiss the application.

4. Heard both sides. Perused the records.

5. The points that arise for consideration are: -

1. Whether PW1 has to be recalled to mark the documents?
2. Reliefs and costs?

6. Point no.1:- It is contended by the petitioner/plaintiff that PW1 has to be recalled to mark the deposition of DW1 (defendant in this case) in O.S 25/2016 and also to mark the statement of account of her and her husband's joint account. On the other hand, the defendant would contend that the deposition of DW1/defendant cannot be marked through PW1. It is also contended that the evidence cannot be reopened to fill up the lacuna in the case. The learned counsel for the petitioner submitted that he had not pressed the earlier I.A filed to reopen the evidence for the purpose of filing a fresh application. The counsel further contended that the above documents are necessary to prove that the case of the defendant is a false case. Per contra, the learned counsel for the defendant submitted that the deposition of the witness cannot be marked as a whole and the same cannot be marked through PW1. It was further submitted that Order 18 Rule17 CPC cannot be used to fill up the lacuna in the plaintiff's case.

7. I have gone through the contentions of the learned counsel for the plaintiff, learned counsel for the defendant and perused the records in the above case. It can be seen that the plaintiff earlier filed I.A 1379/18 to recall DW1 and it was not pressed. The suit is for realization of money. The plaintiff filed a statement of account of the joint account of the plaintiff and her husband's so as to prove that the amount transferred by the defendant to that account was not given towards the defendant mother's treatment. It is to be noted that the plaintiff earlier filed I.A 1379/18 with the same prayer. It is true that the same was not pressed. Even then, this court is of the view that the plaintiff must be given an opportunity to prove that version. It cannot be said that the same will cause any prejudice to the defendant or fill up the lacuna in the plaintiff's case since the document has to be marked only to prove the case of the plaintiff. The other document to be marked is the deposition of defendant in O.S 26/15. It is to be noted that the deposition cannot be marked through PW1 and the same cannot be marked as a whole. Hence the application is allowed in part and it is allowed to recall PW1 so as to mark the statement of account.

8. Point no.2: In the result, the application is allowed in part. No order as to costs.

(Dictated to the Confidential Assistant, transcribed and typed by her corrected by me and pronounced in open Court on this the 19th day of March, 2026)

**Sd/-
Annu Mary Jose
Munsiff**

APPENDIX : Nil

Copied by :
Compared by :

**Sd/-
Annu Mary Jose
Munsiff**