

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : Tmt.M.Santhosham., B.Sc., B.L.,

District Munsif, Sulur

Thiruvalluvar year 2056 Visvavasu year, 9th day of Karthigai

Tuesday the 25th day of November 2025

I.A.No.23/2025

in

O.S.No.137/2017

D. Selvaraj

... Petitioner/ 16th Defendant

/VS/

Janaki @ Kannammal

...Respondent/ Plaintiff

This petition coming for final hearing before me in the presence of Mr.M.Gobalakrishnan, Advocate for the Petitioner and, Ms.R.Krishnaveni, Advocate for the Respondent and upon perusing the records, and this court made the following:

ORDER

Petition filed by petitioner under order 18 Rule 17 section 151 of CPC to recall the PW.1 for cross examination.

1. Gist of averment in petition affidavit as follows:-

1.1. The Respondent/Plaintiff has filed the case against the Petitioners/ Defendants for Partition and other relief. The main case was posted for further cross examination of PW.1 on 01.02.202. The petitioner/ 16th Defendant's earlier counsel Mr.Kuppuraj died on 29.03.2025. Hence, the Petitioner not able to trace out the case bundle from the Advocate's Office. After that some important papers and written statement filed by the petitioner/ 16th defendant is no in the case bundle. Therefore the petitioner/ 16th defendant have applied certificate copy of the written

statement filed by him. So the petitioner/ 16th defendant could not cross examined in time. Hence, this court was close the cross examination of PW.1.

1.2. There is no carelessness or negligence on petitioner/ 16th defendant part. Only due to the above said reason, the petitioner/ 16th defendant was not able to cross examination of PW.1 before this court. The PW.1 cross examination is very much essential to prove petitioner/ 16th defendant case. Therefore it is just and necessary that the case has to be recall the PW.1 cross examination.

(Amended as per order in I.A.No.24/2025 dated 11.11.2025)

2. The Respondent endorsed no counter.

3. No Witnesses were examined on either side, and no documents were marked as exhibits.

4. Points for Consideration:-

Whether the petition under order 18 Rule 17 section 151 of CPC to recall the PW.1 for cross examination is to be allowed?

5. Points:-

5.1. The petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. Both sides were heard, and the case documents were examined. The original suit was filed seeking for the relief of Partition and Permanent Injunction.

5.2. In Original suit, Both side evidence have been completed. Now the case is pending for arguments on Plaintiff's side. The Petitioner stated that the petitioner/ 16th Defendant's earlier counsel Mr.Kuppuraj died on 29.03.2025. Hence, the Petitioner not able to trace out the case bundle from the Advocate's Office. After that some important papers and written statement filed filed by the petitioner/ 16th

defendant is no in the case bundle. Therefore the petitioner/ 16th defendant have applied certificate copy of the written statement filed by him. So the petitioner/ 16th defendant could not cross examined in time. The respondent/plaintiff objected the same.

5.3. This being the trial court, have to given opportunity to both sides to elucidated both side case before this court. Further this being the partition and permanent injunction of title suit, this court must considered both side oral and documentary evidences. Hence, this court thinks an another opportunity can be given to the petitioner / 16th defendant to recall the PW.1 further cross examination of PW.1 to prove their case.

In the result, this petition is allowed. No cost.

Dictated to the Steno typist and directly typed by her in computer, corrected and pronounced by me in open court this the 25th day of November 2025.

Sd./M.Santhosham
District Munsif,
Sulur.

List of witnesses and documents on Petitioners side:- - Nil

List of witnesses and documents on Respondents side:- - Nil

Sd./M.Santhosham
District Munsif,
Sulur.

Draft/Fair Order
I.A.No.23/2025 in
O.S.No.137/2017
Dated : 25.11.2025
DMC, Sular.