

**IN THE COURT OF THE DISTRICT MUNSIF, SULUR**

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

**District Munsif, Sulur**

Thiruvalluvar year 2056 Visvavasu year, 9<sup>th</sup> day of Month of Aavani

Monday the 25<sup>th</sup> day of August 2025

**I.A.No.6/2025**

**in**

**O.S.No.119/2021**

L. Edward Joseph

**... Petitioner/ 2<sup>nd</sup> Defendant**

**/VS/**

1. Manisekar

2. Manimegalai

**...Respondents/ Plaintiffs**

This petition coming for final hearing before me in the presence of Mr.I.Jesudason, Advocate for the Petitioner and, Mrs.S. Sumathy, Advocate for the Respondents and upon perusing the records, and this court made the following:

**ORDER**

Petition filed by petitioner under Order 18 Rule 17 and section 151 of CPC to recall PW.1 for further cross examination from the 2<sup>nd</sup> defendant side.

**1. Gist of averment in petition affidavit:-**

1.1. The 1<sup>st</sup> Plaintiff was examined as PW.1 in the above suit. The 1<sup>st</sup> Defendant had cross examined PW.1. Though the Petitioner/ 2<sup>nd</sup> Defendant have adopted the cross examination of the 1<sup>st</sup> Defendant, the Petitioner/ 2<sup>nd</sup> Defendant in need of clarifying certain additional aspects from his side. So, PW.1 has to be recalled for further cross examination from 2<sup>nd</sup> Defendant side. Further cross examination from Petitioner/ 2<sup>nd</sup> Defendant side is very much necessary for proper and complete adjudication of the case. In the above circumstances, it is necessary to

recall PW.1 for further examination. Hence, the petition is to be allowed.

**2. Gist of averment in counter statement filed by the Respondents as follows:-**

2.1. The petition is false and unsustainable both in law and on the facts of the case. The Respondent/Plaintiffs had filed the suit seeking the present Petitioner/ 2<sup>nd</sup> Defendant and other Defendant to remove the fence, covering their property including the pathway as per the sale deed 1787/1956 and 1025/1978. Both the Defendants had filed the written statements, the issues were framed and the 1<sup>st</sup> Respondent/ Plaintiff was examined as Plaintiffs' side witness and the documents were marked. The 1<sup>st</sup> Defendant had cross examined the 1<sup>st</sup> Respondent/Plaintiff and the cross examination was adopted by the Petitioner/ 2<sup>nd</sup> Defendant.

2.2. At this juncture, the Petitioner/ 2<sup>nd</sup> Defendant had come forward with an application under order 18 Rule 17 R/W 151 of CPC seeking to recall PW.1 for further cross examination on the side of the Petitioner/ 2<sup>nd</sup> Defendant. The Petitioner/ 2<sup>nd</sup> Defendant and the 1<sup>st</sup> Defendant are the adjacent land owners of the Respondents/ Plaintiffs and they had purchased their property during the same time but from different vendors. Now with an intention to drag on the proceedings the Petitioner/ 2<sup>nd</sup> Defendant had come forward with this application without any additional aspects as claimed by him in his application.

2.3. Moreover if the Petitioner/ 2<sup>nd</sup> Defendant had relied upon any documentary proof he would have furnished the same and even if it is so unless and until such documents is produced and a copy is given to the Respondents/Plaintiffs he cannot come forward to answer such allegations which are very bald. Without any reason and without any cause and with an intention to drag the proceedings. Hence, the petition ought to be dismissed.

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 and section 151 of CPC to recall PW.1 for further cross examination from the 2<sup>nd</sup> defendant side 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 Mandatory injunction and Permanent injunction.

5.2. In the Original suit, PW.1 evidence has been completed. Now the case is pending for further Plaintiffs side evidence. The Petitioner stated that the Petitioner/ 2<sup>nd</sup> Defendant in need of clarifying certain additional aspects from his side. The Respondents/Plaintiffs objected that the 1<sup>st</sup> Defendant had cross examined the 1<sup>st</sup> Respondent/Plaintiff and the cross examination was adopted by the Petitioner/ 2<sup>nd</sup> Defendant and without any reason and without any cause and with an intention to drag the proceedings.

5.3. Hence, this court should given opportunity to both side to adduced their side oral and documentary evidence before this court to prove their case on merits. In view of the above said contention this court intent to give one more opportunity to prove the 2<sup>nd</sup> Defendant case by recall the PW.1 for cross examination. In the interest of justice this petition is allowed on cost.

In the result, this petition is allowed on cost of Rs.500/- to be paid to Respondents/Plaintiffs on or before 01.09.2025. On failure this petition is dismissed automatically. For complains call on 01.09.2025.

Dictated to the steno typist and directly typed by her in computer, corrected and pronounced by me in open court this the 25<sup>th</sup> day of August 2025.

Sd/M.Santhosham  
District Munsif,  
Sulur.

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

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

Sd/M.Santhosham  
District Munsif,  
Sulur.

Draft/Fair Order  
I.A.No.6/2025 in  
O.S.No.119/2021  
Dated : 25.08.2025  
DMC, Sulur.