

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CUDDALORE

Present: Selvi.B.Phebe, B.A.,LLB.,

Additional District Munsif, Cuddalore

Tuesday, the 02nd day of December – 2025

I.A.No.394/2025 in O.S.No.92/2004

1. G.Muthukrishnan
2. G.Pandurangan
3. G.Gunasekaran
4. S.Sudhakaran
5. K.Siddharthan
6. K.Thangapazham
7. R.Ramamurthy (Died)

.....Petitioner/Plaintiffs

Vs.

1. N.Janardhanan
2. S.Prabhakaran
3. S.Premkumar
4. S.Sathishkumar
5. L.Devanathan
6. S.Prabhavathy
7. S.Selvam
8. Umamaheswari
9. The State of Tamil Nadu, rep. by its
District Collector, Cuddalore District.
10. The Sub Registrar, Manjakuppam, Cuddalore
11. The Commissioner, Cuddalore Municipality,
12. The Thasildar, Taluk Office, Cuddalore.

13. The Assistant Engineer (Town) Tamil Nadu

Electricity Board (O. & M.), Cuddalore.

14. Raja @ Govindaraj

15. The Sub Registrar, Nellikuppam.

16. R.Pandian

.....Respondents/Defendants

Counsels on Record:

For Petitioners : Mr.R.Rajavelavan

For R2, R8 : Mr.G.Murugaiyan

For R7 : Mr.S.Ramadas

For R3 to 6, 9 to 12 : Exparte in suit
R14, R15

For R16 : Mr.S.Ram Mohan

This petition came before this Court on 25.11.2025 in the presence of both counsels and upon perusal of records and having stood over for consideration till this day, this court delivers the following:

ORDER

This is an application taken out by Petitioner under Order 18 Rule 4 r/w S. 151 of CPC to file an additional affidavit of cheif examination as PW1 and record the same.

2. Gist of the Affidavit filed by the Petitioner:

(i) The 4th petitioner was examined as PW1 and his evidence was closed in the suit and subsequently the respondent filed two applications in IA.Nos.335 and 336 of 2025 to reopen the case and recall PW1 for further cross examination and the

application have been allowed by this Hon'ble Court on 13.11.2025 on terms. After the examination of PW1 certain new developments and points have emerged which were not available at the time of original examination in chief of PW1. These developments have arisen due to defendants subsequent actions. In the light of the said developments, it is necessary for the petitioner to file an additional affidavit of chief examination by PW1 to place on record relevant facts/documents which could not have been included earlier and which are material to the just disposal of the suit.

(ii) The additional affidavit deals with new facts arising from the defendants' subsequent conduct and are not used to fill any gaps in the original examination in chief or to introduce irrelevant matters. Since the plaintiff's side is reopened and PW1 is recalled at the instance of Respondent/D2, no prejudice would be caused to Respondents/Defendants. Hence, sought to allow this petition.

3. Gist of Counter filed by the 2nd Respondent:

(i) The 2nd respondents deny the allegations that after the examination of PW1 certain new developments and points have emerged which were not available at the time of Chief Examination of PW1. The 2nd respondent further deny the allegations that those developments alleged to have arisen due to the alleged defendants subsequent actions. The petitioner was examined very long back and the petitioner during the course of proceedings successfully dragged the case for several years without reasons. The petition is liable to be dismissed for want of clear particulars regarding the alleged developments and the nature of documents which he is going to

file to establish his alleged further claim by way additional chief examination.

4. Gist of Counter filed by the 7th Respondent:

(i) The suit is pending for 21 years. The petitioner is only prolonging the case and causes unjustified delay. This suit has been taken on file by this Hon'ble Court lacking proper jurisdiction. The petitioners should have filed this suit in appellate court. Even these petitioners were not parties in the suit in O.S.No.225/2003 on the file of the I-Additional Sub Court, Cuddalore and they could not question the order of the same before this Hon'ble Court. If this petition is allowed, it may lead to prolongation of the case resulting in further delay contrary to the directions of the Hon'ble High Court, Madras. Hence sought to dismiss the petition.

5. The point for consideration is whether the petition filed by the petitioners under Order 18 Rule 4 r/w 151 of CPC is to be allowed or not?

6. No witnesses were examined nor any documents were marked on either side.

7. The learned counsel for the petitioner reiterated the petition averments and argued that, after examination of PW1 new developments emerged which were not available at the time of original chief examination of PW1 hence it is necessary to file and additional proof affidavit along with document. In the interest of justice the additional proof affidavit does not seek to fill the gaps or seeks to introduce new or irrelevant matter to the case. Since evidence PW1 is already reopened and he is recalled for cross examination,

no prejudice would be caused. Hence sought to allow the petition.

8. The learned counsel for the 2nd, 7th and 8th Respondents reiterated the counter averments and argued that, PW1 was examined long back and now this petition has been filed only to delay the proceedings. The petition is liable to be dismissed since the petitioner has not clearly mentioned the subsequent developments and the nature of documents he is going to file along with additional proof affidavit.

The suit is pending for nearly 21 years. No sufficient reason has been showcaused by the petition for filing this petition belatedly. Further, this petition has been instituted without reopen and recall petition and hence it is not maintainable. Further, he argued that the matter is reopened only for a limited purpose of cross examination. Any subsequent event pending suit is subject to the out come of the suit. In fine sought to dismiss the petition.

The learned Counsel for the 2nd and 8th Respondents relied on the following judgments to substantiate his case.

- The Judgment of Hon'ble Supreme Court in ***M/s Bagai Construction Thr. Its Proprietor Mr.Lalit Bagai v. M/s Gupta Building Material Store*** reported in **2013 AIR SCW 1564** for the proposition that recording of evidence should be continuous followed by arguments and decision thereon within reasonable time. Failure to do so would defeat the very purpose of amendment.
- The Judgment of Hon'ble Supreme Court in ***Nitin Gupta v. Texmaco***

Infrastructure & Holding Limited in **I.A.No.9/2019** for the proposition that the court grating leave to file documents belatedly should be satisfied of the reasons stated for non production of those documents at the earlier stage.

9. In reply, the petitioner argued that when an evidence is reopened it is reopened for all purposes and not exclusively for cross examination and hence the plea of 7th respondent is sustainable in the eye of law.

10. Heard both sides. Perused the records.

11. Analysis:

(i) The petition has been instituted seeking the leave of this court for filing additional proof affidavit along with documents on the ground that there has been subsequent developments. The respondents vehemently objected the petition stating, the petition has been instituted belatedly. However, on perusal of records it could be seen that the matter is pending at the stage of PW1 cross. At this juncture it would be pertinent to refer to the judgment of Hon'ble Madras High court in the case of ***T.Sanjeevi v. E.Perumalsamy*** in the case of **C.M.P.(MD)No.389 of 2021** where in the Hon'ble Court has held that O.18 R.17 is not for the purpose of reopen in the case for further chief or cross. The relevant excerpt from the Judgment is as follows,

“9. There is no specific provision in the Code enabling the parties to re- open the evidence for the purpose of further examination-in-chief or cross examination. Section 151 of the Code provides that nothing in the Code shall be deemed to limit or otherwise affect the inherent powers of the Code to make

such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the court. In the absence of any provision providing for re-opening of evidence or recall of any witness for further examination or cross-examination, for purposes other than securing clarification required by the court, the inherent power under section 151 of the Code, subject to its limitations, can be invoked in appropriate cases to re- open the evidence and/or recall witnesses for further examination. This inherent power of the court is not affected by the express power conferred upon the court under Order 18 Rule 17 of the Code to recall any witness to enable the court to put such question to elicit any clarifications”

(ii) In view of the above proposition, this court is of the view, the plea of respondents that without reopen and recall petition this petition is not maintainable, are not sustainable as the leave of the court is sought under Sec.151 of CPC.

(iii) The reason stated for reception of additional proof affidavit of PW1 seems satisfactory for this court. The suit is now at the stage of cross examination of PW1 (recall). It is well settled principle of law that procedural law being a handmaid of justice has to be used in such a way as not to create a hindrance to the justice delivery system but should be used to reach just outcome.

(iv) However, this court is also wary of hassle to the respondent/defendants in allowing this petition, hence in the interest of justice these petitions are allowed

only in respect of PW1's reopen and recall, with a condition to pay Rs.2,000/- to the respondents/defendants, on or before 06.12.2025.

In result, this petition is allowed on condition, to pay Rs.2,000/- in aggregate to the respondent/defendants on or before 06.12.2025 failing which the order stands cancelled. For compliance 08.12.2025

Dictated to Steno Typist, typed and printed out by her and corrected and pronounced by me in open court, on this day, the 02nd of day of December 2025.

Additional District Munsif,
Cuddalore.

List of Witnesses and Documents on both sides:- -NiL-

Additional District Munsif,
Cuddalore.

ADM Court, Cuddalore.
Fair Order
