

**IN THE COURT OF SUBORDINATE JUDGE,
MADURANTAKAM.**

**Present: Mr. T. GANESH, B.A., B.L.,
Subordinate Judge,
Madurantakam**

**Monday, this 22nd day of September 2025
I.A.No.2/2025
in
H.M.O.P No. 97/2019
(CNR.No.TNKPOB000950-2019)**

Janagi ... Petitioner/Respondent

..Vs..

Rajivgandhi ... Respondent/Petitioner

This petition coming up for final hearing on 02.08.2025 in the presence of M/s. M.Jayaprakash Narayanan, J.Gopinath and S.Saritha, counsels for the petitioner/respondent and Mr.Jaisankar, counsel for respondent/petitioner and after hearing the arguments on both sides and upon perusing the records, having stood over for the consideration of this court till date, this court delivered the following;

ORDER

This petition is filed by the petitioner under Order XVIII Rule 17 of Civil Procedure Code to recall respondent side evidence in the above case.

2. Averments of the petitioners:

Petitioner is the Respondent in the above case. Case posted for Arguments. Petitioner failed to give some details about the case at the time

respondent side evidence. Now she have to examine her, to prove her case. The failure to examine her is neither will full and nor wanton. Hence, petitioner files this petition for recall respondent side evidence in the above case.

3. Averments of the respondents:

The respondent denies the allegations set out in the affidavit. Petitioner has filed the vexatious petition with the false information and the petitioners approached the courts with unclean hands before this court. This court gave several chances to examine the respondent side witness. But the petitioner/respondent adduce evidence. Hence this court closed the respondent side evidence and posted for arguments.

Petitioner filed this petition to drag on the proceedings of the suit and wasting the golden time of this court. Petitioner with unclean hands filed this petition fraudulently before this court. Hence this petition liable to be dismissed with cost.

4. No oral and documentary evidence adduced by both sides.
5. Heard both sides and perused the records.

6. Point :-

“Whether the petitioner’s evidence can be recalled?”

The present petition is filed under Order XVIII Rule 17 of the Code of Civil Procedure seeking recall of the respondent’s side evidence.

It is the case of petitioner that to putforth ceratin things her evidence to be recalled. Respondent defend that the applicaiton is abuse of process of court.

It is well settled that the power under Order XVIII Rule 17 CPC is discretionary in nature and is to be exercised sparingly and only for valid and

justifiable reasons. The object of this provision is not to fill up the lacuna in evidence or to protract the trial, but to clarify any doubt which may arise during the course of trial in the interest of justice. At the same time, the paramount consideration before the Court is to ensure that neither party is deprived of a fair opportunity to put forth their case on merits.

In the present case, it is not in dispute that the petitioner was afforded opportunities to adduce evidence. However, the explanation now offered is that certain aspects remained unelaborated at the stage of examination, which the petitioner seeks to clarify by recalling RW1. While the conduct of the petitioner in not availing the earlier opportunities cannot be ignored, at the same time, outright rejection of the petition may result in shutting out the defence evidence, which may cause serious prejudice.

Therefore, the question before this Court is whether the recall sought is bona fide and whether the same can be allowed without causing prejudice to the opposite side or unduly delaying the proceedings. But this court has granted several opportunities to the petitioner to adduce evidence. In spite she failed to make use of it. There is no explanation by the petitioner. Anyhow as pointed out earlier no loss or prejudice will cause to respondent, if this application is allowed. Considering the lethargic attitude of the petitioner, this court inclined to allow this application on conditions. Hence this point is decided accordingly.

7. Result:

In fine this application is allowed on conditions that,

i) the petitioner shall pay a sum of Rs. 1000.00 (Rupees One Thousand) only to the respondent on or before 06.10.2025 and

ii) the petitioner shall appear on 07.10.2025 and file her chief affidavit without fail. Call on 07.10.2025.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 22nd day of September 2025.

Subordinate Judge,
Madurantakam.

I. Petitioner side evidence and Exhibits : Nil.

II. Respondents side Evidence and Exhibits : Nil

Subordinate Judge,
Madurantakam.

DRAFT/FAIR ORDER
I.A 2/2025
in
H.M.O.P No. 97/2019
D.O.D: 22.09.2025
SUB JUDGE,
MADURANTAKAM