

IN THE III ADDITIONAL CITY CIVIL COURT, CHENNAI

**Present: Tmt. K.Geetha Rani, M.A, M.L.,
III Additional Judge,**

Friday, the 30th day of January 2026

I.A.Nos. 7 of 2025 and 8 of 2025

in

Original Suit No.2518/2016

1. Mrs. D. Devi @ Rejina Beula, W/o. Mr. Dhanaseelan, residing at Door No.32/36, State Bank Colony, Shanthi Nagar 1st Street, Perambur, Chennai-600 011.
2. Mrs. K. Jain Nancy Bai, W/o. Mr. Kamalakannan, residing at No.7/23, M.N. Nagar, Kolathur, Chennai-600 099.

...Petitioners/Plaintiffs

Vs.

1. Mrs. E.K. Sumathibai (died)
2. The Joint Commissioner/Executive Officer, having office at Arulmighu Devi Karumari Amman Tirukoil, Tiruverkadu, Chennai-600 077.

...Respondents/Defendants

These petitions came up on 10.12.2025 for final hearing before this Court in the presence of M/s. P. Manikannan, counsel for the Petitioners/Plaintiffs in two I.As and of M/s. Ashok Menon, counsel for Respondent/Defendant, on perusal of affidavit, petition and common counter filed by the respondents and plaintiff upon hearing the arguments on both sides and having stood over for consideration till

this day, this Court delivered the following:

COMMON ORDER

I.A.No.7 of 2025:

This petition has been filed Under Order 151 of CPC to re-open the evidence of DW1 which was closed on 02.09.2025 in O.S.No.2518 of 2016 and give fair chance to establish my case by way of cross examination.

I.A.No.8 of 2025:

This petition has been filed Under Order 18 rule 17 of CPC to re-call the evidence of DW1 in the suit in O.S.No.2518 of 2016 and give fair chance to establish my case by way of cross examination.

2. The common averments in the affidavit in support of the petitions in I.A.Nos.7 of 2025, 8 of 2025 in short as follows:

The petitioner has stated that she is the petitioner/plaintiff herein and she is well acquainted with the facts and circumstances of the case. She have filed an affidavit in O.S.No.2518 of 2016 suit before this Hon'ble Court and the same may be treated as a part and parcel of the affidavit. She is filing this affidavit for herself and

on behalf of the 1st plaintiff. She submit that the above case posted for defendant side evidence on 02.09.2025. She further state that due to ill-health condition she has not appeared before this Hon'ble Court for giving instructions to her counsel for cross examination. She further state that her counsel has also Headache and spinal problem, in view of the same he was not able to appear before this Hon'ble court with the result that this Hon'ble Court was closed the cross examination of DW1 and posted further DWS. Hence this petition.

3. The common counter filed by the respondent in the two I.As in short as follows:

The respondent has stated that he is functioning as the Assistant Divisional Engineer in the 2nd Defendant temple, and as such he is well acquainted with the facts of the case. He submit that, the petitioners/plaintiffs have filed I.A.No.7 of 2025 praying that the evidence of the Respondents/Defendants be reopened and I.A.No.8 of 2025 has been filed praying that he will be recalled for cross examination.

He submit that he have been examined in chief on 08.07.2025 and the above case was thereafter posted to 15.07.2025 for his cross examination.

He submit that thereafter the above case is adjourned to various dates for his cross examination. This Hon'ble court posted the above case for his cross examination to 19.08.2025 fixing the time for the cross examination as 03.30 p.m.

On that day there was no representation on behalf of the petitioners/plaintiffs and this Hon'ble Court was pleased to adjourn the case to 02.09.2025 for my cross examination. He was present in this Hon'ble Court on that day, but there was no representation on the side of the petitioners/plaintiffs when the above case was called. This Hon'ble Court was pleased to pass over the above case to the afternoon session and until 4.10 p.m. there was no representation on behalf of the petitioners/plaintiffs herein, and this Hon'ble Court was pleased to close his evidence and to post the above case to 09.09.2025 for the evidence of further witnesses, if any, on our side. He submit that thereafter the petitioners/plaintiffs have come forward with the present petition, and the petition to recall him for cross examination.

He submit that no proper reason has been given in the affidavit filed by the 1st petitioner/plaintiff herein in support of the petitions. In fact para 2 of the affidavit reads as follows and with greatest respect he is humbly reproducing the same verbatim:

“ He submit that the above case posted for defendant side evidence on 02.09.2025. He further state that due to ill-health condition he is not appeared before this Hon'ble Court for giving instructions to his counsel for cross examination. He further state that his counsel is also had headache and spinal problem. In view of the same he was not able to appear before this Hon'ble Court with the result that this Hon'ble court was closed the cross examination of DW1 and posted further DWS.

Hence this petition before this Hon'ble Court.

He submit that the counsel for the petitioners/plaintiffs could have sent any of their juniors to seek adjournment, but instead there was no representation on their behalf, owing to which this Hon'ble Court was pleased to close my evidence.

He submit that from the above it is crystal clear that the petitioners/plaintiffs herein know full well that the above suit is totally devoid of merits, but in order to harass the respondents/defendants herein to the maximum extent possible have delayed the proceedings at every stage. The averments in the affidavit indicate that the petitioners/plaintiffs herein are taking the judicial process very lightly and taking this Hon'ble Court for a ride. Hence the petition may be dismissed.

5. Point for consideration:

1. Whether the petitions has to be allowed or not?

6. No oral and documentary evidence adduced on both sides.

7. Points No.1:

7.1. Both petition has filed by the petitioner/plaintiff under order 18 rule 17 and Section 151 of cpc to recall and reopen the DW1 evidence. The petitioner is the plaintiff in the suit and she has stated that she is well acquainted with the facts and circumstances of the case and also filing this affidavit of herself and also on

behalf of the 1st plaintiff the above case posted for defendant side evidence on 02.09.2025 due to ill-health condition I have not appeared and the Hon'ble Court giving instruction to my counsel for cross examination, the counsel was also not appear because of head ache and spinal problem in view of the same he was not able to appear before this Hon'ble court, as the result the Hon'ble Court close the cross of DW1 and posted for the further evidence hence the same may be reopened. The non-appearance on that day is neither willful and nor wanton only for the reason stated above.

7.2. Whereas in the counter filed by the second respondent he has stated that this Hon'ble court posted the above case for cross examination on 19.08.2025 fixing time for cross examination at 3.30 p.m on that day there was no representation on behalf of the petitioner and the matter is pending for cross examination from 15.07.2025 and again the matter was adjourned for 02.09.2025 for cross examination , neither the petitioner nor his counsel appeared, they have been called absent and the matter passed over for till 4.30 p.m. and there is no representation on behalf of the petitioner/plaintiff and the court was please to close the evidence and post the above case on 09.09.2025 for further witness if any on the side of the defendant the reason stated by the petitioner has not been accompanied with any document that because of ill health only the petitioner/plaintiff has not appeared. Even a junior of the office was also not appeared and sought adjournment it is very

crystal clear that the petitioner plaintiff is knowing fully well that the above suit is totally devoid of merits, but in order to harass the respondent/defendant to the maximum extend possible have delayed the proceedings at every stage. Hence taking the judicial process very lightly and also taking this Hon'ble Court for ride. Hence the petition may be dismissed.

7.3. Heard both side, though the petitioner has stated that on 02.09.2025 he was not able to appear before this court because of his ill health and the counsel has not appeared because of his headache and spinal cord problem nothing has been proved by producing a document and the reason is not enough and convincing to decide because no document has been produced. After the plaintiff has been examined and the plaintiff side evidence was closed on 12.06.2025 and posted the matter for defendant side evidence within 2 hearings one Mr. Kannan has been examined as Dw1 on the side of the second defendant on 08.07.2025 and it has been adjourned for crss of Dw1 from 15.07.2025, 22.07.2025, 29.07.2025, 05.08.2025, 19.08.2025 and thereafter on 02.09.2025 in all the hearings except 2 hearings and all the other hearing the DW1 was present but the plaintiff called absent no representation each and every time the matter will be passed upto 5.10pm or 4.10pm or 01.10 pm. The petitioner/plaintiff never appeared before this court. The reason for 02.09.2025 is not only enough that reason has been stated only to escape from the liability but at the same time the attitude of the petitioner/plaintiff not appearing

before this court shows that they wanted to drag the matter to their extend possible but having filed this application to recall the DW1 and also for reopen without showing their interest to cross examine the witness mere allowing the petition is not give a fruitful result because the petitioner/plaintiff will not appear on the date has been fixed for Cross of Pw1 before knowing about the inconvenience of the petitioner/plaintiff. This petition is allowed on condition. The petitioner is hereby directed to appear before the court on 13.02.2026 and on that day the DW1 was also present only if both were present the petition will be allowed and further order will be passed. On the day of appearance of petitioner and defendant and their counsel very well ready to cross examine the DW1, if they have not cross examined on that day also the petition will automatically dismissed. In this way the petition has been decided.

I.A.No.7 of 2025:

In the result, the petition is allowed on condition. The petitioner is hereby directed to appear before the court on 13.02.2026 and on that day the DW1 was also present only if both were present the petition will be allowed and further order will be passed. On the day of appearance of petitioner and defendant the plaintiff and his counsel very well ready to cross examine the DW1, if they have not cross examined on that day also the petition will automatically dismissed. In this way the petition has been decided.

I.A.No.8 of 2025:

In the result, the petition is allowed on condition. The petitioner is hereby directed to appear before the court on 13.02.2026 and on that day the DW1 was also present only if both were present the petition will be allowed and further order will be passed. On the day of appearance of petitioner and defendant the plaintiff and his counsel very well ready to cross examine the DW1, if they have not cross examined on that day also the petition will automatically dismissed. In this way the petition has been decided.

Directly dictated to the stenographer, transcribed and computerized by her, corrected and pronounced by me in the open Court, this the 30th day of January 2026.

III Additional Judge,
City Civil Court, Chennai.

List of Witness and documents on both side : Nil

III Additional Judge,
City Civil Court, Chennai.

Draft / Fair : Common Order
I.A.Nos.7/2025 and 8/2025 and – in
O.S.No.2518 of 2016
Dated: 30-01-2026
III Additional City Civil Court,
Chennai.