

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present: Thiru. R. Sundara Kamesh Marthandan, M.L.,

I Additional District Munsif, Nagercoil.

Tuesday, on the 4th day of February 2025

I.A. No. 6 of 2025 in

O.S. No. 168 of 2021

CNR. No. TNKK04-000220-2021

1. The District Collector,
Kanyakumari District,
Nagercoil.

2. The Block Development Officer,
Agastewaram Union,
Kanyakumari District.

... Petitioners / 2nd & 3rd Defendants

-VS-

1. Yesu Nesam

2. I. Jacob Edwin

... Respondents/ Plaintiff & 1st Defendant

This Petition came before this Court on 27.01.2025 for final hearing, Mr. C. Johnson, Government Pleader for the Petitioners, Mr. Sivathanumalayan Pillai, Advocate for the Respondents. Upon hearing both sides and Upon perusing the case records and having stood over for consideration, till this date, this Court hereby delivers the following:

ORDER

1. The Petitioner had filed the above Petition under Order XVIII Rule 17 and Section 151 Code of Civil Procedure seeking an order to recall PW1, on the side of the 2nd and 3rd Defendants.

2. The Block Development Officer, Agasteeswaram Union, Kanyakumari District had stated that, on 13.08.2024, the case was posted for cross examination of PW1. However due to administrative inconvenience, he was unable to contact his Counsel and PW1 could not be cross examined on that day. Hence the cross examination of PW1 was closed. The same is not wilful default or wanton. The Petitioner could not contact the Government Plader, in time to conduct the case. If the PW1 is not cross examined, the Petitioners will put to irreparable loss and hardship. Hence the above Petition.

3. The Respondent had filed counter, stating that the Petitioner's claim of administrative inconvenience of the 3rd Defendant is not acceptable one. The cross examination of PW1 was closed on 13.08.2024. However the recall Petition was filed only on 02.01.2024. Only in order to protract the case, the above false Petition has been filed. There is no merit in it. It is not maintainable on law and facts. Hence the Respondent prayed for dismissal of the above Petition.

4. The point for consideration is Whether the above Petition has to be allowed or not ?

5. Since it is stated that the Petitioners due to administrative inconvenience could not contact the Counsel and hence PW1 was not cross examined by the 2nd and

3rd Defendants and as the suit is now in the stage of further Plaintiff Side Evidence, this Court is of the considered view that the Petitioners/Defendants 2 and 3 could be given an opportunity to cross examine PW1.

Hence this Petition is allowed on condition, the Petitioners/ Defendants 2 and 3, shall cross examine PW1, on the day when the case is posted for PW1 cross examination, by D2 and D3 and upon his appearance before this Court. There shall be no order as to cost.

Dictated to the Steno-Typist, transcribed and typed by her, corrected and pronounced by me, in open court this, the 4th day of February 2025.

I Additional District Munsif,
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil.

I Additional District Munsif,
Nagercoil.

I ADM, Nagercoil
Draft/Fair Order
I.A.No. 6/2025 in
O.S.No.168/2021.
Date: 04.02.2025.

