

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF
AT KANCHIPURAM

PRESENT: Tmt. Fanny Rajan, B.A., B.L.,(Hons)
Principal District Munsif, Kanchipuram

On Thursday, the 18th day of December 2025

I.A 11 of 2025

and

I.A 12 of 2025

in

O.S.No.491 of 2001

CNR.No.TNKP08-000011-2001

1. Thangammal (died)
2. Gnanasammantham
3. Venkatesan,
4. Rubagandhi
5. Dilligandhi

.... Petitioners/Plaintiff

/Versus/

1. Yadhavasangam Represented by its President
Sri. Rajipillai
2. Murugan
3. Jayalakshmi

.... Respondents/Defendants

This Petition has come up on 01.12.2025 for final hearing before me in the presence of M/s.G. Ravikumar counsel for the Petitioners and M/s. P.K.Thevarajan, G. Pandurangan, V. Vimalanathan counsels for the

Respondents, upon hearing the argument and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

COMMON ORDER

1. **IA No.11 of 2025:** The petitioner filed this petition under section 151 of cpc reopen the PW-1 side evidence for marking of documents and thus render justice
2. **IA No.12 of 2025:** The petitioner filed this petition under order 18 Rule 17 to recall the chief examination for PW-1 and thus render justice.

Concise statement of the averments in the affidavit filed by the Petitioner in IA No.11 and 12 of 2025:

3. The petitioner has averred that the case is posted for further defendant evidence. On 17.04.2024, the 1st defendant was not cross examined, as he intended to file an amendment petition. The cross examination is necessary to prove his case. Hence, this petition to recall and reopen the DW1 evidence for cross examination.

Concise statement of the averments in the counter affidavit filed by the 2nd Respondent in IA No. 11 and 12 of 2025:

4. The 2nd respondent has stated that the petitioner already filed Recall and Reopen in I.A.No. 3/2023 and I.A.No.4/2023 which was allowed and the

petitioner Counsel crossed the Respondent. Again, the Petitioner filed Recall and Reopen petition in I.A.No.5/2024 and I.A.No.6/2024 and it was also allowed this court and the petitioner counsel cross examined the Respondent. The petitioner filed this petition wantonly to delay the court proceedings. This suit is pending for more than 25 years and the application is filed only to protract the proceedings. The relief claimed is not maintainable in law and on facts. Hence, the petitions are liable to be dismissed.

5. Upon perusal of records, it is noted that the 1st and 3rd defendant are already set exparte in the main suit and hence notice was dispensed with in this petition.

POINT FOR CONSIDERATION:

6. **I.A NO.11 OF 2025:** Whether the petition to re-open the has to be allowed or not?
7. **I.A NO.12 OF 2025:** Whether the petition to re-call has to be allowed or not?

DISCUSSION AND FINDINGS:

8. This Court considers the submissions of the learned counsels for the Petitioner and 2nd respondent and perused the materials on record. No ocular

or documentary evidence has been let in by the Petitioners and Respondent.

9. On perusal of the records, it is found that the Plaintiff evidence was closed on 05.03.2021. Thereafter, the DW1 was examined on 18.03.2021. The chief examination of DW1 was closed on 14.06.2023. Thereafter, the case was posted for DW1 cross on 21.06.2023, 05.07.2023 when the DW1 was absent. On 11.07.2023, the DW1 was present and at request it was adjourned.
10. At this juncture, the Petitioner filed I.A.No.3 and 4 of 2023 for recall and reopen of Plaintiff evidence and allowed on 20.11.2023. Again the Plaintiff evidence was closed on 07.02.2024 after examination of PW3. The case reverted to DW1 cross examination. On 19.02.2024 and 26.02.2024, the DW1 was present and adjourned at request of the Plaintiff. On 08.03.2024, the DW1 was absent. Later he was present on 13.03.2024 and 18.03.2024. However, DW1 was partly cross examined on 13.03.2024 and when adjournment was sought on 18.03.2024, the DW1 evidence cross examination was closed.
11. Whiles, this Petitioner filed I.A.No.5 and 6 of 2024 seeking to reopen and recall the DW1 for cross examination. The said petitions were allowed on 05.04.2024 with a condition to conduct the case on a day today basis.

Though the DW1 was present on 16.04.2024 and 17.04.2024, the Petitioner was not ready to cross examine the DW1. Hence, the DW1 evidence was closed on 17.04.2024. Admittedly, the I.A.No.7 of 2024 was filed on 17.04.2024 for amendment and later allowed on 21.12.2024. It is also noted that I.A.No.9 and 10 of 2025 have also been filed and disposed on 01.09.2025 and 29.10.2025. Thereafter, this petition to reopen and recall is filed.

12. This Court finds it necessary to take judicial note of the ratio decidendi of the Hon'ble Supreme Court in plethora of cases that there will be some lapse on the part of litigant concerned in all cases and that alone should not be enough of turn down his plea. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor.
13. In view of the above said propositions, this Court examines whether a liberal approach can be adopted in the case of the Petitioners. On thorough perusal of the records, this Court finds that the reason quoted by the Petitioner for cross examination on 17.04.2024 is due to the filing of an amendment petition. Hence, considering the fact that the amendment petition was filed and subsequently allowed the non cross examination of

DW1 on that day may be considered reasonable. It is a well established principle of law that if the explanation provided does not smack of malafides or it is not put forth as part of a dilatory strategy the court must show utmost consideration.

14. In view of the above stated, this Court examines if there is any deliberate negligence or delay. This court has considered the arguments of the Learned Counsel for the Respondent alleging that this Petition is filed to delay the proceedings and the Petitioners were not prudent. It is pertinent to note that despite the contention of dragging the proceedings, as there is no substantive facts or evidence to establish the alleged malafide for the actions of the Petitioner as several interim applications have been filed after the closure of the DW1 evidence. Hence, in the interest of justice, this court is of the considered view that the contention of the Learned Counsel for the 2nd Respondent on this behalf is not acceptable.
15. Though this Court has concluded that the reasoning stated by the Petitioner is vague as there is no specific details. Upon perusal of the Petitioner's Affidavit and other material records, this Court finds that though there is a vagueness in the reasoning, there is no apparent or deliberate delay on the side of the Petitioners or any attempt by the Petitioners to abuse the process

of law. Considering the reason stated, though vague does not show any malafide.

16. Therefore, this Court considers it necessary to adopt a liberal approach in respect of the vague reasoning by the Petitioners and this Court is inclined to permit the Petitioner to reopen and recall the DW1 evidence for cross examination. Further, in the absence of malafides, the lapses on the part of the Petitioner shall not be a reason to deny another opportunity to the Petitioner to contest the case on merits in the interest of justice. Hence, this Court concludes that in the interest of justice, the Petitioners ought to be provided with an opportunity to reopen and recall the DW1.
17. Though this court finds that the leave may be granted to reopen and recall the PW1 evidence to provide an opportunity to the Petitioners to adduce their evidence, it is appropriate to consider if there is any inconvenience caused to the Respondent due to the filing of the instant petition.
18. This Court takes judicial note of the law laid down by the Hon'ble Supreme Court that ***“It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.”***

19. As such, the instant petition having been filed at this stage has caused inconvenience to the Respondent and the suit is of the year 2001. Considering the said fact that this Court finds it reasonable to order a sum of Rs.1000/- to be paid by the Petitioner to the Respondents for the inconvenience caused to the DW1 in each of the reopen and recall Petitions I.A.No.11/2025 and I.A.No.12/2025. This Court directs that the Petitioners should be ready for cross examining the DW1 on his appearance and should extend full co-operation to the conducting the trial effectively.

RESULT:

20. I.A.No.11 of 2025: In the result, this petition is allowed and the DW1 evidence is reopened for the limited purpose of cross examination by this Plaintiff; on the condition that the Petitioner shall pay a sum of Rs.1000/- (Rupees One Thousand only) to the DW1 on or before 08.01.2026 and co-operate with the trial. Call on 08.01.2026.

21. I.A.No.12 of 2025: In the result, this petition is allowed and the PW1 evidence is recalled for the limited purpose of cross examination by this Plaintiff on the condition that the Petitioner shall pay a sum of Rs.1000/- (Rupees One Thousand only) to the DW1 on or before 08.01.2026 and co-operate with the trial. Call on 08.01.2026.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 18th day December 2025.

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM

Petitioner and Respondent side witness and document : NIL

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM