

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI

Present : Selvi.A.Yughathymariya, B.Com, L.L.B.(Hons.,)

Additional District Munsif, Kulithalai.

Dated Thursday, the 13th day of November 2025

I.A No.13/2025 in O.S No.136/2020

1) Kulithalai Co-Operative Building Society Limited R 926
represented by its Secretary.

2) Kulithalai Co-Operative Building Society Limited R 926
represented by its President.

3) Joint Registrar, Co-Operative Building Society Limited , Mannarpuram, Trichy.

...Petitioners/Defendants

- Vs -

1) Muthuveeran

2) Ravichandran

...Respondents/Plaintiffs

This petition has come up for final hearing on 30.10.2025 before this Court in the presence of Mr. V.R.Balasubramanian, the Learned Counsel appearing for the Petitioners and in the presence of Mr. R.M.Senthil, the Learned Counsel appearing for the Respondents, upon perusal of material records and having stood over for consideration till this day, this court delivers the following:

ORDER

This petition is filed under Order 18, Rule 17 r/w Section 151 of CPC by the Petitioners/Defendants in order to recall DW1 for the purpose of marking of certain additional documents on the side of the Defendants in the above suit.

Brief averments in the affidavit:

2) The Petitioner is the Secretary (in charge) of the Kulithalai Co-Operative Buildings Society Limited. The above suit has been posted for further Defendant

side witnesses. Upon searching the old records available in the Defendants office, the Petitioners/Defendants have come to know that on 05.09.2013, the 1st Plaintiff has paid about Rs.70,000/- to the 1st Defendants society and for the same, on 09.10.2013 a cheque has been issued to the 1st Plaintiff by the defendant's society. The above documents are available to the Petitioners by now only. The above documents would definitely prove the case of the Petitioners/Defendants in the above suit. In order to mark the above documents, it is necessary to recall DW1 and for marking of those documents a separate petition has also been filed by the Petitioners herein. If this petition is not allowed, the Petitioners will be put to irreparable loss and hardships. Hence, this petition.

Brief of the Counter objections filed on behalf of the Respondents:

3) This Petition is false, frivolous and unsustainable in law. All the allegations in the affidavit except that are admitted herein are false and specifically denied and the same is put to strict proof by the Petitioners only. The allegations contained in the affidavit that those documents are available to the Petitioners and they are found recently are all meaningless and specifically denied. The documents cited in the list are all xerox copy of the documents and they are not admissible in evidence and the said documents can not be marked in the above suit for the said reason. The affidavit is having no valid reasons. In the absence of any valid reasons, the petition deserves to be dismissed in limine. Hence, this petition is liable to be dismissed with exemplary costs.

Point for determination:

4) Whether the Petitioners are entitled to the relief sought for in this petition or not?

Evidence:

5) There is no oral and documentary evidence adduced on either side.

Discussion:

6) Heard both sides. Perused records. Upon perusal of records, it is seen that the above suit has been filed by the Respondents/Plaintiffs against the Petitioners/Defendants for the relief of Permanent Injunction in respect of the suit "A" and "B" Schedule property. Admittedly, in the above suit Plaintiffs' side evidence was closed and on the side of the Defendants, DW1 was examined and through him Ex.B1 to Ex.B4 were marked and thereafter, the above suit has been posted for further DW's. Pending the same, this petition has been filed on the side of the Defendants in order to recall DW1 for the purpose of marking of certain additional documents on their side.

7) It is the case of the Petitioners that the 1st Petitioner is the Secretary (in charge) of the Kulithalai Co-Operative Buildings Society. He further contended that when searching the old records in the office of the 1st Defendant, by recently only they have come to know about that the 1st Plaintiff on 05.09.2013 has paid a sum of Rs.70,000/- to the 1st Defendant society and for the same on 09.10.2013 in favour of the 1st Plaintiff, a cheque has been given thereby the said amount received from the 1st Plaintiff was refunded. The Petitioners further contended that the above said documents were found very recently only in their office and they are necessary to prove the case of the Defendants in the above suit. For the same, this petition has been filed by the Petitioners in order to recall DW1 for the purpose of marking of the said documents on their side in order to substantiate their case.

8) Per contra, the major objections that has been raised on the side of the Respondents is that the above said documents are xerox copies only and they are not admissible in evidence and it can not be marked in the above suit and for the said reason, the Respondents have sought to dismiss this petition.

9) Upon careful consideration of the pleadings of both parties, it could be seen that the Respondents/Plaintiffs have claimed that they have purchased the suit 'A'

Schedule property. However, the Petitioners/Defendants in the above suit has contended that exceeding the extents which have been sold out to the Plaintiffs, the Plaintiffs have encroached the portion of property which belongs to the Defendants society. Moreover, the Plaintiff side evidence was closed in the above suit and on the side of the Defendants, DW1 was examined and through her Ex.B1 to Ex.B4 were already marked. Upon perusal of those documents, it could be seen that the documents which were marked on the side of the Defendants in the above suit even relates to the year of 1982, 2013 and so on. The documents which are proposed by the Petitioners to be marked on their side is also of the year of 2013 only. But the Petitioners have contended that very recently only they have found out those documents when searching their office files. The Respondents have contended that the said documents proposed to be marked on the side of the Defendants in the above suit are only xerox copies of the said records and they are not admissible in evidence.

10) However, the reasons stated by the Petitioners for the delay caused in not marking the above said documents on their side earlier is found insufficient. Without going into the admissibility and reliability of the documents intended to be marked on the side of the Defendants in the above suit by way of recalling DW1, this Court is of the view that opportunities must be given to the parties in order to prove their cases respectively. In order to render complete justice, every parties must be given every opportunities to prove their cases respectively and after completion of full trial only this Court can render fair and complete justice. Therefore, this Court is inclined to allow this petition in the interest of justice. However, the Respondents have been put to inconvenience for the delay caused on the side of the Petitioners in not marking the above said documents on their side at the earlier point of time. Hence, in order to balance the equities, this Court deems it fit to impose costs on the Petitioner as a condition for allowing this petition.

Result:

In result, with the above observations, this petition is allowed with costs of Rs.500/-

to be paid by the Petitioners to the Respondents on or before 23.11.2025, failing which this order shall stand automatically vacated.

Dictated to my steno-typist, taken down by her in short hand and typed by her in the computer, corrected by me and pronounced by me in the open court on this the 13th day of November 2025.

**Additional District Munsif,
Kulithalai.**

Petitioners side witness and documents	-	Nil.
Respondents side witness and documents	-	Nil.

**Additional District Munsif,
Kulithalai.**