

In the Court of the Principal District Judge, Madurai  
Present: Thiru. S. Sivakadatcham, B.Sc., M.L.,  
Principal District Judge, Madurai

Wednesday, this the 21<sup>st</sup> day of January, 2026

I.A.No.3/2025  
in  
COS.No.4/2024

S. Kaveri Priya ...Petitioner/ Plaintiff.

/Vs/

D. Vijayakumar .. Respondent/ Defendant.

This petition coming today for hearing before me in the presence of Thiru.Aru.Maruthachalam, Advocate for the petitioner and of Tmt.A.S.Sangeetha, Advocate for the respondent, upon hearing both sides and having stood over for consideration till this day, this court delivered the following:-

ORDER

The petitioner has filed this petition under Order XVIII, Rule 17 r/w. Sec.151 of Civil Procedure Code to recall P.W.1 in the main C.O.S.No.4/2024.

**2. The averments in the affidavit filed along with petition are briefly as follows:-**

The petitioner has filed the main suit for recovery of money against the respondent. The petitioner has filed petition in I.A.No.2/205 to summon the Inspector of Police, DCB.1 to produce certain documents and the same was allowed by this court on 04.07.2025. Accordingly the Inspector of Police produced the documents, but inadvertently the Inspector of Police failed to wait

for making those documents. It is essential to mark those document to prove the case. So, the P.W.1 may be recalled to mark those documents. Hence, this petition is filed.

**3. The averments in the counter affidavit filed by the respondent are in brief as follows:-**

The petitioner has already filed the same petition in i.A.No.2/2025, which was allowed on 04.07.2025, but the petitioner never produced the evidence now shown, so the petition has to be dismissed. When the same issue heard and decided, res judicata will operate in a subsequent issued. The petitioner is barred by res judicata. So, the petition is liable to be dismissed.

**4. The point for determination:**

Whether this petition is allowable or not?

5. Both sides have not adduced either oral evidence or documentary evidence. Heard both sides.

**6. Point:**

The learned petitioner's counsel has argued that the petitioner has filed this petition to summon the Inspector of Police, DCB-1, Madurai to produce documents, but failed to mark those documents, so P.W.1 may be recalled to substantiate her case.

7. The learned respondent's counsel stoutly contended that the petitioner has filed the very same petition, but the petitioner did not produce the documentary evidence now produced, so the petition may be dismissed.

8. Records perused. The petitioner has filed the suit for recovery of Rs.42 lakhs from the respondent in pursuance of agreement for construction entered into between the petitioner and the respondent also directing the respondent to pay Rs.,20 lakhs as damages or compensation and also directing the 1<sup>st</sup> respondent to furnish security for a sum of Rs.62 lakhs failing which to order for attachment of 2<sup>nd</sup> item of suit property. When the case was posted for further evidence of PWs, the petitioner has filed petition I.A.No.2/2025 to summon the Inspector of Police to produce certain documents during mediation held by the Inspector of Police DCB.1, Madurai and the said petition was allowed on 04.07.2025. It is contended by the petitioner side that through the documents were produced, inadvertently the Inspector of Police failed to wait for marking documents, so the P.W.1 may be recalled. The only main objection raised by the respondent is that the petitioner has already filed the very same petition, which was also allowed, so the present petition filed with same facts cannot be allowed. The suit has been filed for recovery of money as well as damages for non-performing the construction as contemplated in the agreement entered into between the petitioner and the defendant. The petitioner has filed this petition to recall P.W.1 only for marking the documents furnished by the Inspector of Police DCB.1, Madurai. Whether the documents are relevant to the case or not can be adjudicated only at the time deciding the issue based on evidences adduced on both side. Mere recalling the P.W.1 for marking the document will not cause any prejudice the respondent side. The respondent has also

opportunity to produce contra evidence. Furthermore, it is settled proposition of law that the parties to the case have to be given all opportunities to substantiate their respective cases before trial court. Therefore, in order to avoid multiplicity of proceeding and also in the interest of justice, this court holds that this petition shall be allowed.

9. In the result, this petition is allowed. No cost.

Dictated to the stenographer, transcribed by him, corrected and pronounced by me in open court this the 21<sup>st</sup> day of January, 2026.

Principal District Judge,  
Madurai

**List of witnesses examined:-**

Petitioner side – Nil

Respondent side – Nil

**List of documents marked:-**

Petitioner side – Nil

Respondent side - Nil

Principal District Judge,  
Madurai