

**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUCHENGODE**

Present: Mrs.G.Rubana, B.Sc., M.L.,
Additional Subordinate Judge, Tiruchengode.

On Tuesday, this the 17th day of February 2026

I.A.No: 03 of 2025
in
O.S.No: 52 of 2017

Mr.P.Subramanian,

..... Petitioner/ Plaintiff.

//Vs//

1. Mrs. Jeya,
2. Mrs. Reena,
3. Mrs. Nalina devi,
4. Mrs. Bakkiyam (Died),

..... Respondent/ Defendant.

This petition having been filed on 12.11.2025 and taken on file on 19.11.2025 and coming on 03.02.2026 for final hearing before me in the presence of Advocate Mr. K. Pushparaju, B.Sc., B.L., for the Petitioner / Plaintiff and Advocate Mr. T. Senthilkumar, B.Sc., B.L., and Advocate Mr. Gu.Nagappan, B.Sc., B.L., for the Respondents / Defendants and having stood over for consideration till this day, upon perusing the connected material parts of records and hearing both side arguments, this court doth delivers the following:

Order

This application has been filed by the petitioner/plaintiff under Order XVIII Rule 17 and Section 151 of the Code of Civil Procedure seeking permission to recall PW1 for the purpose of marking additional documents on the side of the plaintiff in O.S. No.52 of 2017.

2. The gist of the affidavit filed by the Petitioner /Plaintiff is as follows:-

2.1. The petitioner submits that he is the plaintiff in the suit and that he has

filed the said suit for recovery of money due under a promissory note executed by one Mr. Muthuswamy. The respondents herein are the legal heirs of the deceased Muthuswamy. The petitioner prays that the averments made in the plaint may be treated as forming part and parcel of this affidavit.

2.2. The petitioner further submits that during the course of cross-examination, a question was put to him as to whether he is prepared to produce his Income Tax Returns and Balance Sheet. He submits that the relevant Income Tax Returns and Balance Sheet were obtained subsequent to the filing of the suit and, therefore, the same could not be produced earlier.

2.3. The delay in producing the said documents is neither wilful nor wanton, but due to circumstances beyond the petitioner's control. The documents sought to be produced are necessary for proper adjudication of the issues involved in the suit. Hence, this petition is filed seeking permission of this Hon'ble Court to receive the said documents, failing which the petitioner would be put to irreparable loss and prejudice. It is therefore prayed that this Hon'ble Court may be pleased to allow this petition.

3. The gist of the counter statement filed by the 2nd Respondent / 2nd Defendant in I.A.NO:4/2025 is adopted by the 1st to 3rd Respondents/Defendants is as follows:-

3.1. The respondents submit that the petition is false, frivolous, and not maintainable either in law or on facts, and they deny all the averments made therein. The respondents further contend that the present petition seeking to receive additional documents, namely the Income Tax Returns, is not maintainable. The reason assigned by the petitioner for non-production of the said documents at the earlier stage is stated to be false and untenable.

3.2. It is submitted that during the cross-examination dated 12.07.2023, the petitioner (P.W.1) deposed that he has been doing lorry business by letting out his lorry on hire since 1967 and that he was engaged in rig borewell business from 1995 to 2005. He further admitted that the alleged loan advanced to the deceased Muthuswamy was not reflected in his Income Tax Returns.

"நான் லாரி தொழில் செய்கிறேன். எனக்கு சொந்தமாக லாரி உள்ளது. அதை வாடகைக்கு விடுகிறேன். நான் 1967-ல் இருந்து லாரிதொழில் செய்து வருகிறேன். நான் 1995-லிருந்து 2005 வரை ரிக் வண்டி வைத்து தொழில் செய்து வருகிறேன். நான் மேற்சொன்ன தொழிலிருந்து வரும் வருமானங்களை வருமான வரி கணக்கில் காண்பித்துள்ளேன். வருமான வரிக்கணக்கில் லாபம், நட்டம், நான் கொடுத்த கடன், வாங்கிய கடன் போன்ற விவரங்கள் இருக்குமென்றால் சரிதான். அந்த விவரங்களை நான் வருமான வரி கணக்கில் காண்பிக்க வேண்டுமென்றாலும் சரிதான். மேற்படி முத்துசாமிக்கு கொடுத்த கடனை எனது வருமான வரி கணக்கில் சொல்லியுள்ளேனா என்றால் இல்லை"

3.3. In view of the above admission, the respondents contend that the petitioner cannot now seek to produce Income Tax Returns to contradict his own admission made during cross-examination. It is a settled principle of law that a party cannot be permitted to fill up lacunae in evidence or to introduce documents at a belated stage to nullify admissions already made.

3.4. The respondents therefore submit that the present petition lacks bona fides and has been filed only with an intention to protract the proceedings. No sufficient or valid reason has been assigned for the earlier non-production of the documents. Hence, the respondents pray that this petition seeking to recall P.W.1 and to receive additional documents be dismissed.

4. Points for Determination:-

Whether this petition is liable to be allowed?

4.1. Heard the learned counsel on either side and perused the records.

4.2. The learned counsel for the petitioner submits that during the course of cross-examination, a question was put to the petitioner as to whether he had produced his Income Tax Returns. In view of the question put to him during cross-examination, it has become necessary for the petitioner to produce the Income Tax Returns for proper adjudication of the matter. Hence, he prays that this petition may be allowed.

4.3. Per contra, the learned counsel for the respondents submits that it is true that a question regarding the petitioner's Income Tax Returns was put to him during cross-examination. However, the petitioner himself admitted that the alleged loan advanced to the deceased Muthuswamy was not reflected in his Income Tax Returns. In such circumstances, the petitioner cannot now seek to produce the said documents to overcome his own admission. Hence, the learned counsel prays for dismissal of the petition.

4.4. On perusal of the records, it is revealed that the plaintiff has filed the suit against the respondents/ defendants to recover the amount due under a promissory note executed by the deceased Muthusamy as the respondents/defendants are his legal heirs. It is further seen from the records that the suit has been pending from the year 2017, for more than 7 years.

4.5. The written statement of the 2nd defendant was filed on 25.10.2017 and the same was adopted by the 1st and 3rd defendants. Issues were framed on 18.01.2021. Thereafter, the plaintiff was examined as P.W.1 on 04.05.2023 and Exs.A1 to A4 were marked. P.W.1 was partly cross-examined on 12.07.2023, and the cross-examination of P.W.1 was completed on 27.10.2025. When the matter was posted for examination of further witnesses on the side of the plaintiff, the petitioner has filed the present petition under Order VII Rule 14(3) read with Order XVIII Rule 17 CPC, seeking permission to produce additional documents along with additional proof affidavit of P.W.1.

4.6. It is seen from the cross-examination of P.W.1 dated 12.07.2023 that he has admitted that the alleged loan advanced to the deceased Muthusamy was not reflected in his Income Tax Returns. The learned counsel for the respondents would contend that in view of the said admission, the present petition to produce the Income Tax Returns is only an attempt to fill up the lacuna and to overcome the admission made during cross-examination.

4.7. This Court has carefully considered the said submission. Whether the entries in the Income Tax Returns support or contradict the earlier admission, and what evidentiary value is to be attached to such documents, are matters to be decided at the time of final appreciation of evidence. Mere admission of a document does not amount to proof of its contents.

4.8. This Court is not expressing any opinion on the correctness, genuineness or evidentiary value of the proposed documents. The effect of the admission made during cross-examination and the probative value of the additional documents shall be decided at the time of final appreciation of evidence and though there is some delay in filing the present petition, in order to afford an opportunity for complete adjudication of the issues involved, this Court is inclined to permit production of the said documents. At the same time, the prejudice likely to be caused to the respondents can be compensated by imposing costs and granting them liberty to further cross-examine P.W.1 strictly with regard to the additional documents.

4.9. Further, this court is of the considered view that the petitioner shall pay costs of Rs.500/- to the respondents on or before 23.02.2026. On such payment, the petitioner is permitted to produce the additional documents and file additional proof affidavit. The respondents are at liberty to further cross-examine P.W.1. Failing payment of costs within the stipulated time, this petition shall stand dismissed automatically.

5. Result :-

In the result, this petition is allowed, subject to the conditions imposed herein above.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 17th day of February 2026.

Additional Subordinate Judge,
Tiruchengode.

Petitioner and Respondent side oral and documentary evidence : Nil

Additional Subordinate Judge,
Tiruchengode.

Fair/draft order
IA.No. 03 of 2025
O.S.No. 52 of 2017
Date : 17.02.2026.