

**IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE
RANIPET, RANIPET DISTRICT.**

Present: Thiru.A.BALAKRISHNAN, B.B.A., L.L.B.,
I Additional District Judge, Ranipet.

Wednesday, this the 18th day of March 2026

I.A.No. 7 OF 2026

in

O.S.No. 2 OF 2019

1. S.Padmanaban
2. S.Balkumar

..Petitioners/Defendants

-Vs-

1. S.Palani
2. P.Usharani

...Respondents/Defendants

This petition is coming before me for final hearing on 16.03.2026 in the presence of Thiru.K. Kizar Basha, Advocate for Petitioners and Thiru.R.Pandurangan, Advocate for Respondents and upon hearing the arguments of both side and on perusal of all connected material records and having stood over for consideration till this date, this court passed the following;-

ORDER

The Petitioners/Defendants have filed the application Under Order 18; Rule 3 (a) CPC, seeking permission to examine the 1st defendant as DW1 in the suit.

1.The 1st petitioner/1st defendant has filed an affidavit in support of the application stating that he has not been so far appeared as a witness in the above suit and hence it is necessary to grant permission to him to adduce his oral evidence.

2.The respondents/plaintiffs have filed a counter contending that the 2nd defendant was already examined as DW1 for herself and on behalf of the 1st petitioner/1st defendant as DW1 and the 3rd parties have also been examined as DW2 and DW3 on the side of the defendants and hence the present application seeking permission to examine the 1st defendant as DW1 is not maintainable.

3.Point for determination is:-

Whether the application filed by the petitioners/defendants seeking permission to examine the 1st petitioner/1st defendant as witness in the above suit after examination of their witnesses is deserved to be allowed?

4.Point:- a) On perusal of records, it is seen that the defendants 1 and 2 have engaged same advocate to appear for them in the above suit and a single vakalath for both defendants has been filed by their advocate. It is to be noted that the 1st defendant has filed his written statement on 03.08.2019 and the 2nd defendant has filed a memo on 03.08.2019 to adopt the written statement of 1st defendant.

b) As rightly pointed out on the side of the respondents/plaintiffs, the 2nd defendant has filed Chief examination affidavit on 10.03.2021 for herself and on behalf of the 2nd defendant. It is pertinent to be noted that the 2nd defendant who has been examined as DW1 has specifically admitted in cross examination that she has filed the chief examination affidavit for herself and on behalf of the 1st defendant. After examination of the 2nd defendant as DW1, the defendants have examined their witnesses as DW2 and DW3. When the case was posted for defendants side further evidence, the present application was filed on side of the defendants seeking permission to examine the 1st defendant as DW1.

c) The learned counsel for the petitioners/defendants has argued by relying the decision of Hon'ble High Court of Madras in Sathyanandam and others vs Murugavel dated 29.09.2020 that a party to the suit can be examined as a witness even after examination of non party witness and necessary permission Under order 18 Rule 3(a) CPC can be granted by the court. As stated above, in the case on hand, the 2nd defendant has already been examined for herself and on behalf of the 1st defendant as DW1 and third party witnesses have also been examined on their side. As stated above, the defendants have not filed separate written statements and in fact, the 2nd defendant has adopted the written statement of 1st defendant. Hence the decision submitted on the side of the petitioners is not applicable to the facts and circumstances of the present case. The suit is pending from the year 2019 onwards and the defendants have already been provided sufficient opportunity for examination of witnesses. After commencement of trial, the petitioners/defendants have filed petition after petition and hence the trial of the suit has been delayed. There is no merit in the application and reason given in the affidavit is also found in correct. Hence the application is liable to be dismissed. This point is answered accordingly.

In the result, the application is dismissed. No cost.

Dictated by me to the Steno-typist, transcribed and typed by her in the computer, corrected and pronounced by me in the open court, on this the 18th day of March 2026.

I Additional District Judge,
Ranipet.