

**DMC ARAKKONAM 1 IA.No.04 of 2025 IN OS.150/2012
IN THE COURT OF DISTRICT MUNSIF ARAKKONAM RANIPET DISTRICT**

PRESENT:- Selvi.A.AMEENA.,BBA.,LLB(Hons)

DISTRICT MUNSIF, ARAKKONAM

Wednesday the 11th day of February 2026

IA.No.04 of 2025

IN

OS.150/2012

(CNR - TNRP080001122012)

1. Nageswari
2. Janaki
3. Vijaya
4. Uma
5. Amudha
6. Krishnaveni
7. Bharathi

---Petitioners/Plaintiffs

(vs)

1. Kumaresan
2. Ramesh
3. Kamatchi

---Respondents/Defendants

This suit is coming for final hearing before me on 27.01.2026 in the presence of Mr.S.Prabakaran counsel appearing for Petitioners/Plaintiffs. Mr.S.Md.Jamaludeen counsel appearing for R1. On perusal of entire case records having stood over for consideration till this day, this court has delivered the following:-

This petition is filed by Under Section 151 of CPC to condone the delay in filing the documents described in the petition and pass such other necessary orders.

1. Brief Averments of petitioner:

1.1. The petitioner states that the petitioner is the 1st plaintiff in the above suit. IN the suit Pw2 are vadivel was examined in chief on 01.09.2015 but the defendant failed to cross examined him and the evidence was closed. After 10 years the respondent/defendant filed the petition to recall the Pw2 vadivel for cross examination and the same was allowed by this Hon'ble court. Now Pw 2 is affected by paralysis attack and he is not able to speak and move. He is unable to give evidence in cross. Hence prays that his chief may be eschewed. Therefore prayed to eschewed the chief of Pw2 and the petitioner may be permitted to examine further witness on her side and render justice.

2. Brief Averments of Counter filed by the 1st Respondent/1st defendant:

2.1. The Respondent states that the petition is not maintainable either in law or on facts of the case. The respondent was filed an application to reopen the case and also filed an application to recall PW-1 and PW-2 for cross examination. The aforesaid petitioners I.A.No.1 to 3/2025 were allowed on 19.09.2025. Thereafter the cross examination of Pw1 was over on 22.10.2025 and further the above case was posted for Pw2 cross examination.

2.2. Further states that the petitioners counsel reported this Hon'le court that Pw2 was very sick and bed-ridden and therefore they wanted to eschew the evidence of Pw2. Accordingly this Hon'ble court directed the petitioners to file petition to eschew the evidence of Pw2 though the petitioners/plaintiffs have filed application to eschew the chief of Pw2 and added in the prayer 4 of the affidavit as well as in the

petition stating that the petitioner may be permitted to examine further witness on her side and pass necessary orders.

2.3. Further states that the reopen and recall petition for the cross examination of Pw1 and 2 filed only by the 1st respondent/1st defendant. On the other hand without any filing separate application the petitioners are not legally entitled to examination further witness on her side. Therefore the petition filed by the petitioners are not legally maintainable. There is no objection on the side of this respondent in respect of his claim to eschew of Pw2. On the other hand the petitioners are not legally entitled to examination further witness on her side as alleged in the affidavit and petition. Therefore the additional prayer in the affidavit as well as in the petition is un sustainable in law. Therefore prayed to that this respondent is not having any objection to eschew the chief of Pw2 and in other aspects this petition may be dismissed and thereby render justice.

3. Points for consideration:

Whether this petition is to be allowed or not?

No oral evidence has been adduced by either side. No exhibits were marked on either side.

4. Discussion and findings:

4.1. Heard both sides. Perused the records. The case of the petitioner is that Pw2 was examined in chief 10 years ago and the respondent filed recall reopen petition to cross examine Pw2 and the petition was allowed by this court. Pw2 is now paralysis ed and bed ridden and prays to eschew Pw2 evidence and permit for further evidence. Whereas, the contention of the respondent/defendant is that the petition can not pray for further evidence in this petition as Pw2 was called for cross examination only by allowing recall petition hence further plaintiff side evidence is not maintainable.

4.2. Upon perusal of rival submission this court is of opinion that considering, Pw2 is bed-ridden and paralysis and is not able to appear before this court. In interest of justice this court is inclined to allow this petition and Pw2 evidence is eschewed. The petition has liberty to file steps for examining Pws on their side.

In result this petition is allowed. No cost.

Dictated to typist directly, typed in his computer, corrected and pronounced by me in the Open Court on this the 11th day of February 2026.

District Munsif,
Arakkonam.

Petitioner side witnesses and Exhibits:- NIL

Respondent side witnesses and Exhibits:- NIL

District Munsif,
Arakkonam.