

IN THE COURT OF THE DISTRICT MUNSIF, SANKARI

Present: Tmt. R. ELAMATHI, B.A., B.L.,
District Munsif, Sankari

Thursday, the 05th day of March, 2026

திருவள்ளூர்வராண்டு 2056, விசுவாவச வரூடம், மாசி திங்கள் 21-ம் நாள் வியாழக்கிழமை

I.A.13/2025 & I.A.14/2025 in O.S.210/2015

1. Arulmigu Annamalaiyar Thirukovil
Rep. By its Dharmakarta A. Natarajan (Died)
2. N. Arulkumar ... Petitioners / Plaintiff

//Versus//

1. Maheswari
2. Chinnappan ... Respondents / Defendants

This above two petitions taken to file on 27.11.2025 and coming on this day 7.02.2026 for hearing before me in the presence of Thiru. S. Christopher Advocate for the Petitioners and of Thiru.M. Panneerselvam Advocate for the Respondents and and after perusing the Petition, counter and hearing on both sides, this Court passed the following,

COMMON ORDER

I.A.13/2025 & I.A.14/2025 in O.S.210/2015

This Interlocutory Applications is filed by the Petitioners/Plaintiffs Under Section151 of CPC, 1908 seeking to reopen the Defendant side evidence and Under Order 18 Rule 17 of CPC,1908 seeking to recall DW1 for further cross-examination.

2) The Gist of the Petition in I.A.No.13/2025 & I.A.14/2025:-

2.1) The Petitioners submit that, he is the 2nd Plaintiff in the suit. The Petitioners have filed the suit seeking for the relief of Permanent Injunction against the Respondents.

2.2) The Petitioners submit that, the suit posted to 27.11.2025 for arguments. The Petitioners submit that some important points and vital were omitted during cross examination of DW1. In facts recently he have got some important documents, in which also the petitioners have the necessity of putting questions to DW1. Towards the same defendants side evidence has to be reopen for the purpose cross examination of DW1. Unless DW1 recall, The Petitioners will be put to irreparable in loss and hardship. On the other hand the Respondents will not be in any way prejudice. Therefore it is just and necessary that this Court may be to pass an order to reopen the defendant side evidence and recall of DW1 for the purpose of cross examination and order further necessary proceedings and thus render justice.

3) The Brief averments of the Counter by the 1st Respondent in I.A.13/2025 & I.A.14/2025 :-

3.1) The Respondents contends that the averments made in the petition are false, frivolous, and not maintainable either in law or on facts.

3.2) The Respondents deny each and every allegation contained in the petition, except those that are specifically admitted herein. The burden of proving the allegations lies entirely upon the Petitioners/Plaintiffs.

3.3) The Respondents averred that the evidence in the suit was completed on 16.10.2023, and the matter was posted for arguments on 20.10.2023. The cross-examination of DW1 (Maheswari) was completed on 13.10.2023. Thereafter, for a period of nearly two years and one month, the petitioners/plaintiffs did not file any petition seeking recall or re-examination of DW1. On several occasions, the Plaintiffs failed to secure the presence of PW2 for examination. Ultimately, PW2 appeared on 09.10.2025, and on the very same day, the cross-examination of PW2 was completed in full. Even on 09.10.2025, the Petitioners did not seek recall of

DW1. The present Petitions has been filed only with an intention to delay the proceedings. Further the Respondents stoutly opposed that the Petitions does not specify what vital points were allegedly omitted during cross-examination. The Petitioners have vaguely stated that certain important documents were recently obtained and that questions are to be put to DW1 based on those documents. However, no such documents have been produced along with the Petitions. The Petitioners have also not mentioned the date on which such documents were allegedly received. There is no explanation for the inordinate delay. Therefore the Respondents prays for the dismissal of the petitions.

4) Points for consideration:-

Whether the Petitioners are entitled for the relief as prayed for?

- 5) No oral and documentary evidences were adduced on both sides.
- 6) Heard, both sides learned counsels. Records perused. These Interlocutory Applications have been filed by the Petitioners/Plaintiffs Under Section 151 and Order 18 R17 of CPC, 1908 seeking (i) to reopen the defendants' side evidence and (ii) to recall DW1 for the purpose of further cross-examination. The case of the Petitioners in brief as, the Petitioners contends that certain vital and important aspects were inadvertently omitted during the earlier cross-examination of DW1. It is further stated that the Petitioner have recently obtained certain important documents, and therefore it has become necessary to put certain additional questions to DW1 with reference to those documents. The Petitioners submits that unless DW1 is recalled, he would suffer irreparable loss and hardship, whereas no prejudice would be caused to the Respondents. Hence, the Petitioner prays that the Defendants evidence may be reopened and DW1 may be recalled for further cross-examination. Per contra, the Respondents contends that the cross-examination of DW1 was

completed on 13.10.2023 and the evidence in the suit was closed on 16.10.2023, after which the suit was posted for arguments on 20.10.2023. It is further contended that for nearly two years the Petitioner did not take any steps to recall DW1. The Respondents would further contend that the Petitioner has not specified what vital points were omitted during cross-examination and though it is stated that certain important documents were recently obtained, no such documents have been produced along with the petition nor has the Petitioners disclosed the date on which the alleged documents were received. Therefore, according to the Respondents, the petitions has been filed only with an intention to delay the proceedings and hence it is liable to be dismissed.

Upon careful consideration of contentions of both side counsels, the present petitions has been filed under Section 151 of CPC for reopening the defendant's side evidence and under Order 18 Rule 17 of CPC for recall of DW1for cross. In the present case, it is not in dispute that the cross examination of DW1 was completed and the evidence in the suit was closed, thereafter the suit was posted for arguments. This court is of opinion as, the petitioner has approached this Court seeking recall of DW1 after a considerable lapse of time. The scope of the said provision is, the power under Order XVIII Rule 17 CPC is primarily intended to enable the Court to clarify any doubt regarding the evidence already recorded, the Court also possesses inherent powers under Section 151 CPC to permit reopening of evidence and recall of witnesses where such course is necessary for the ends of justice and to render a complete and effective adjudication of the dispute. At the same time, the Hon'ble Supreme Court has cautioned that such power should not be exercised to fill up lacunae in the evidence or to protract the proceedings unnecessarily. The Court must therefore exercise its discretion judiciously depending upon the facts and

circumstances of each case. In the present case, the petitioner has stated that certain material aspects could not be put to DW1 during the earlier cross-examination and that certain documents which have recently come into the petitioner's possession necessitate further questioning of DW1. Though the respondents contend that the petitions have been filed with a view to delay the proceedings, it is equally important to note that the ultimate object of a trial is to arrive at the truth and to render justice between the parties. The opportunity of cross-examination is an indefeasible right available to a party in a civil trial. If certain material questions relating to the dispute between the parties are required to be put to the witness for proper adjudication of the case, the Court may permit such recall in the interest of justice, provided that the same does not seriously prejudice the opposite party. In the present case, permitting the petitioner to further cross-examine DW1 would not cause any serious prejudice to the respondents. On the other hand, if the opportunity sought for by the petitioner is completely denied, it may result in certain relevant aspects remaining unexplored during the trial. Based upon the discussions made above this court is of considered opinion as, considering the nature of the suit and in order to afford a fair opportunity to the petitioners for contesting their respective case, this Court is of the view that the petitioners may be granted a fair opportunity to further cross-examine DW1 and also considering the fact that this petition has been filed after a considerable lapse of time and in order to compensate the hardship caused to the respondents, this petition is deserved to be allowed on payment of cost.

COMMON ORDER

I.A.No.13/2025 & I.A.No.14/2025

7) In result, the Interlocutory Applications are allowed on payment of cost of Rs.250 each by the petitioners to the Respondents. For compliance of cost. C/O 12.03.2026.

This Common order directly dictated to Typist and typed by her and corrected by me, and Pronounced in the Open Court in the 05th day of March, 2026.

District Munsif,
Sankari.

Encl.:

Petitioners side Witnesses & Exhibits:- NIL

Respondent side Witnesses & Exhibits:- NIL

District Munsif,
Sankari.