

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE (FTC),
VELLORE, VELLORE DISTRICT.

PRESENT: Thiru.P.V.Sandilyan, M.L.

Additional District Judge (FTC), Vellore.

Friday, the 5th day of December, 2025

I.A. No.5/2025 in O.S. No.190/2022

Noorjahan . . . Petitioner/Defendant

/ Versus/

Mani . . . Respondent/Plaintiff

This petition came up before me for final hearing on 02.12.2025, in the presence of Tr.T.Dineshkumar, Counsel for the Petitioner/Defendant and Tr.P.K.Sridhar, Counsel for the Respondent/Plaintiff and upon hearing the arguments of both sides, upon perusal of case records and having stood over for consideration till this date, this court delivers the following:-

ORDER

This petition has been filed under Order XVIII Rule 17 of C.P.C. to recall the PW1 for further cross examination.

2. The averments of the affidavit are as follows:-

The petitioner is the defendant in the main suit. The plaintiff had filed the suit for declaration and for mandatory injunction against her. The petitioner previously engaged one counsel for conducting the case, but her counsel does not ask some important legal points while cross examined the PW1. The

important vital points does not raise by her counsel in the cross examination of PW1. The case stands posted on 24.10.2025 for defendant side further evidence. Therefore, the petitioner prayed to reopen the case for cross of PW1.

3. The averments of the Counter filed by the Respondent are as follows:-

The petition is not maintainable either in law or on fact of the case. The respondent submitted that the petition filed by the petitioner to reopen the case for the cross-examination of PW1 was such a belated stage. Further in the affidavit and petition the court name was mentioned wrong "In the Court of the Principal District Court of Vellore," which clearly showed that the petitioner had already prepared the petition with the intention of unnecessarily prolonging the proceedings. It was pointed out that the plaintiff's side was already cross-examined on 27.08.2024, PW2 was examined on 18.12.2024, the defendant was examined on 04.03.2025, and further cross-examination was done on 22.07.2025. The respondent mentioned that the petitioner had now claimed to have vital points and had blamed her previous counsel for not asking certain important points, but such allegations were illegal and high handed. The petitioner filed the petition only for the purpose of dragging the proceedings. Therefore, the respondent prayed to dismiss the petition with costs.

4. There is no oral and documentary evidence on both sides.

5. The point for consideration in this petition is, **whether this petition is to be allowed or not?**

6. Point:-

6.1 The learned counsel for the petitioner would contend that the previous counsel engaged by the petitioner has not asked some important legal points while cross examining the P.W.1 which are necessary to prove the petitioner's case. Hence, it is prayed to recall P.W.1 for cross examination.

6.2 The learned counsel for the respondents vehemently opposed the recall of P.W.1 for cross examination stating that plaintiff's side cross examined on 27.08.2024, PW2 examined on 18.12.2024, defendant examined on 04.03.2025 and the defendant further cross examined on 22.07.2025. Now the petitioner filed this petition stating that she is having vital points in this case and also blamed the previous counsel for not asking the important vital questions while cross examining P.W.1 and prayed to dismiss the petition with costs.

6.3 The suit filed by the respondent for declaration and for mandatory injunction against the petitioner. In this case, the plaintiff's side witness P.W.1 was examined in chief on 25.06.2024 and cross examined in full on 27.08.2024 and the P.W.2 was examined and cross examined on 18.12.2024. Then, on 04.03.2025 the defendant's side witness D.W.1 examined and cross examined partly on 22.07.2025. Subsequently on 31.07.2025 when the case was posted for D.W.1 cross continuation, the defendant stated that she intended to change

her counsel and sought time. Now, the defendant changed her counsel and come with petition to recall P.W.1 for cross examination. The objections raised by the respondent does not have much force. To order under Order 18 Rule 17 of C.P.C., the power to exercise by the court is discretionary and has to be exercised with great care in exceptional circumstances to prevent failure of justice. The suit is for declaration and for mandatory injunction, the petitioner must be provided an opportunity to prove her defence by cross examining the P.W.1 then only the real controversy between the parties will be adjudicated in proper perspective. No prejudice will be caused to the respondent in allowing the petition. Hence in the interest of justice, this court is of the considered view to provide opportunity to the petitioner to cross examine P.W.1.

In the result, this petition is allowed No costs.

Dictated by me to the Stenographer, directly and computerized by her, corrected and pronounced by me in open court this on this the 5th day of December, 2025.

**Additional District Judge (FTC),
Vellore.**

Both side Witnesses and Exhibits:- - NIL -

**Additional District Judge (FTC),
Vellore.**