

IN THE COURT OF THE DISTRICT MUNSIF JUDGE, PALLADAM

**Present:- Thiru. V. Kalidasan, B.Com., L.L.M.,
District Munsif,Palladam.**

Tuesday the 25th day of June 2024

I.A. No.130/2024

in

O.S.No.09/2015

S.Varadharajan

... Petitioner/ Defendant

/Vs/

Janaki

... Respondent/Plaintiff

ORDER

The petitioner filed this petition Under order 18 rule 17 & Sec 151 of CPC to recall the petitioner (DW1) for marking of additional documents in petitioner side and thus render justice.

This Petition is coming on 13.06.2024 for final hearing before me in the presence of Thiru.R.Mahesan,B.A.,B.L., Advocate for the Petitioner and MS.R.Krishnaveni,B.A.,B.L.,Advocate for the respondent. Upon perusing the Petition, affidavit, counter statement and other connected material papers of record and hearing the arguments of both sides and having stood over till this day for consideration, this court made the following...

1. The case of the petitioner is that he have filed this recall petition for recall him for marking of additional documents for his side. Unless this petition

is allowed he will be put to much loss and hardship. Therefore, he prayed to allow this petition.

2. The case of the respondent is that when the case was posted for examination of further defendant's side witnesses, the petitioner has filed an application to recall him for marking of additional documents. It is settled law that **WITHOUT SPECIFIC PLEADINGS NO EVIDENCE CAN BE LET IN**. Hence the petitioner cannot ask for recall him for marking the said documents. In the given situation, if the application is allowed and the D.W.1 is recalled as sought for by the petitioner, it will only defeat the right of the respondent. Therefore, the application to recall the D.W.1 is highly belated and motivated one. The only intention of the petitioner is to drag on the proceedings of the case, endlessly. The petitioner has not approached this Hon'ble Court with clean hands. Hence, he is not entitled to any relief in the petition as prayed for. Hence, prayed to dismiss this petition.

3. Points for consideration:

Whether this petition will be allowed or not ?

4. Answer to the point :

5. Heard both sides. No oral or documentary evidence is let in by both sides.

6. Materials on records perused. This petition was filed by the petitioner Under order 18 rule 17 & Sec 151 of CPC to recall the petitioner (DW1) for marking of additional documents on the side of petitioner.

7. On perusal of the records it is the contention of the petitioner that he filed the recall petition for recall of himself as PW1 for marking of additional documents for his side. No specific reason has been stated by the petitioner why he has not filed this petition much earlier. On the other hand the respondent contented that without specific pleadings no evidence can be let in. The petitioner

has not stated any reason in this petition and he has not pleaded anything in the written statement filed by him in the suit in respect of documents sought to be marked. Hence, this petition is liable to be dismissed.

8. This petition is filed to recall the petitioner as DW1 for marking of documents. The petitioner has not stated anything in his supporting affidavit in respect to the documents sought to be marked. Though, the petitioner has not stated any reason in his petition, in order to avoid further delay in the suit proceedings and to provide one fair opportunity to the petitioner, this court is inclined to allow this petition. However, the delay caused by the petitioner has to be compensated to the other side by way of paying cost.

In the result, this petition will be allowed on condition that the petitioners herein shall pay the cost of Rs.1000/- to be paid to the respondent on or before 05.07.2024. Further, the respondent shall file his additional proof affidavit on 06.07.2024. If any one of the conditions will not comply by the petitioners this petition will stand dismissed automatically. For compliance call on 06.07.2024.

Dictated to Steno - Typist, and typed directly in computer and corrected & pronounced by me in open Court, on this 25th day of June 2024

**DistrictMunsif,
Palladam.**