

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, TIRUPPUR**Present:- Thiru. N. Gunasekaran, M.B.A., B.L.,****Principal District Judge, Tiruppur**Monday, the 1st day of December, 2025**I.A. No. 06/2025 and****I.A. No.07/2025 in****O.S. No. 625 / 2023**

V.Savitha

...Petitioner / 2nd Defendant

Vs.

1. Muniappan

2. Eswari

(Respondent Nos. 1 and 2 are represented by their
Special Power of Attorney viz. M. Pushpavalli)

...Respondents / Plaintiffs

On 24.11.2025, these petitions came up before me for the final hearing in the presence of Thiru. O.K. Shganmugam, Counsel appearing for the petitioner and Thiru. A. Suresh, Counsel appearing for the respondents, upon hearing both side and on perusal of case records, this Court delivers the following:-

COMMON ORDER

Petition in I.A. No.06/2025 and 07/2025 are to reopen the evidence on the side of plaintiff and to recall PW.1 for further cross-examination on behalf of the petitioner / 2nd defendant, respectively.

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2) The case of the petitioner 2nd defendant in brief from her petition in both the I.A. Nos.06/2025 and 07/2025 accompanying the affidavit reads as follows:-

The petitioner herein is the 2nd defendant in the suit and the respondents herein have filed the suit for the relief of declaration and is pending. At the time of cross-examining the PW.1 on 19.07.2025, some important questions are omitted to be put to PW.1 with regard to the Special Power of Attorney; dated: 21.04.2014 in Ex.A.1 and they are important to the case of the petitioner. Hence, in order to recall PW.1 for further cross-examination on the side of the petitioner, the evidence on the side of the plaintiffs which was closed on 21.08.2025 has to be reopened. Otherwise, the petitioner will be put to irreparable loss and hardship. Hence, the petitions.

3) The case of the respondents / Plaintiffs in brief from their counter statement in both the I.A.Nos. 06/2025 and 07/2025 reads as follows:-

The Power of Attorney holder of the respondents / plaintiffs viz. M. Pushpavalli has filed this Court on representing them. She craves leave of this Court to treat the plaint averments, written statement, depositions and documents as part and parcel of the counter statement. The petition is not maintainable either in law or on facts and is liable to be dismissed in limini. PW.1 has already been examined in chief and cross at length by the defendants and they were afforded ample opportunity to put forth all the relevant questions. Reopen of evidence and recall of witness is not a matter of right but is subject to judicial discretion. The grounds cited by the defendants for

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reopen and re-call are vague, speculative and do not disclose any specific material facts or contradictions that would warrant further cross-examination. The Hon'ble High Court and Apex Court had ruled out that Order 18 Rule 17 of Civil Procedure Code cannot be used by the litigants to fill lacunae in their case or to strengthen weak evidence which would lead to unnecessary delay and harassment to the witness and hence, the petition is to be dismissed with exemplary cost.

4) Point for consideration is as follows:-

Whether the leave is to be granted to the petitioner / 2nd defendant to reopen the plaintiff side evidence and to recall PW.1 for further cross-examination?

5) Point :

Both side heard. Records perused. The suit is for declaration and other reliefs having filed by the respondents herein and against the petitioner / 2nd defendant and two others. Petitions under order are filed when the case is in the stage of cross-examination of DW.2. Perusal of records would disclose that the plaintiffs are the husband and wife and their power agent was examined as PW.1 in chief and cross examined and their side evidence was closed on 21.08.2025 on examining PW.2.

6) The petitioner / 2nd defendant is the daughter-in-law of the 1st defendant and she would contend that she is in need to further cross-examine the PW.1 in respect of Special Power of Attorney; dated: 21.04.2014 in Ex.A.1 to elicit

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valid material point. Ex.A.1 was said to have been executed by the respondents / plaintiffs in favour of PW.1 / Pushpavalli in authorizing her to initiate legal proceedings which is the basis of the suit on their behalf. The petitions under order are only to recall PW.1 for further cross-examination and therefore, the question of filling up of lacunae does not arise. It is to reiterate that the alleged Special Power of Attorney is dated: 21.04.2014 and the suit is of the year 2023. No prejudice would cause to the respondents / plaintiffs in allowing the petitions to reopen their side evidence and to recall PW.1 who being their power agent for further cross-examination. Moreover, the respondents / plaintiffs are having chance to re-examine the PW.1 to clarify ambiguity, if any. Fair opportunity is to be given to both parties in establishing their case and to determine the issues. For the reasons stated above and in the interest of justice, this court is inclined to allow these petitions and accordingly, the point is answered.

In the result, I.A. Nos. 6/2025 and 7/2025 are allowed and leave is granted to the petitioner / 2nd defendant to reopen the respondents / plaintiffs' side evidence and to recall PW.1 for her side further cross-examination with reference to Ex.A.1/Special Power of Attorney.

Dictated to the Steno-typist, typed by her directly on Computer, corrected and pronounced by me in the open Court and uploaded in the Case Information System, on this 1st day of December, 2025.

Principal District Judge,
Tiruppur.

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LIST OF WITNESSES & EXHIBITS ON BOTH SIDE: Nil

P.D.J., Tiruppur.

Common Draft / Fair Order
I.A. No. 6/2025 and 7/2025
in O.S.No.625/2023
Dated: 01.12.2025
P.D.J. Court, Tiruppur.

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