

**IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS  
JUDGE, THANJAVUR.**

**Present :Thiru.P. Nagarajan, M.A.M.L.,  
II Additional District & Sessions Judge, Thanjavur.**

**Wednesday the 1st day of April 2026  
(Thiruvalluvar Andu 2057 - Panguni Matham 18th day)**

**I.A.No.8/2026 in ORIGINAL SUIT No:123/2020**

1.H. Abdul Hakeem .....**Petitioner/1st defendant**

/vs/

1.C. Muruganandham .....**Respondent/Plaintiff**

2. J. Noor Bijira Begum ... **Respondent//2nd defendant**

This petition having come up for final hearing before me on **25.03.2026** in the presence of **Thiru. R.Udhayakumar**, Advocate for the Petitioner/ 1<sup>st</sup> defendant and of **Thiru.R. Guhavengateswaran** Advocate for the respondent/plaintiff and 1<sup>st</sup> respondent endorsed no counter and upon hearing the arguments of both sides, upon perusal of the entire material records pertaining to the case and the matter having stood over for consideration till this date, this court delivered the following

**ORDER**

(1) The petitioner/1st defendant filed this petition under Order 18 Rule 17 and Section 151 of CPC to pass an order to recall plaintiff who was examined as PW.1. for the purpose of contradicting the document.

(2) **Summary of affidavit filed by the petitioners as follows:**

The petitioners herein and the 1<sup>st</sup> defendant in the above suit. The plaintiff has filed this suit to enforce the sale agreement alleged to have been entered by him with plaintiff No.16.11.2017 and on other grounds as set out in the plaint where he deny the execution of the sale agreement as set out by him in my defense as pleaded in the written statement. The plaintiff is a powerful panchayathar who would solicit persons who are in need of man with money and muscle power to settle dispute between parties. The petitioner is in the habit of getting power of attorney from several persons, thereby the plaintiff would cheat them with the help of power of attorney said to have been obtained from them. The plaintiff had obtained one such of power of attorney from a lady who was left with no male person to conduct the case on her behalf, whereby the plaintiff had conducted the case on behalf of the principal. He had obtained the certified copy of the petition only after the examination of plaintiff of PW.1 He had to contradict the above said petition with plaintiff to prove his case. Hence he has filing this application to recall plaintiff who was examined as PW.1. for the purpose of contradicting the documents Unless this application is allowed he will be put to irreparable loss and hardship. Hence this petition.

**(3) Crux of the counter filed by the 1<sup>st</sup> respondent/plaintiff:**

The petition is not maintainable either in law or on facts and liable to be dismissed in limine. The allegation that this respondent is in the habit of getting power of attorney from several persons thereby the plaintiff would cheat them with the help of power of attorney and to have been obtained from them is not

true and denied by his respondent. The petitioner has not mentioned the details of the document regarding which he seeks to reopen and recall of PW.1. The petitioner cannot fill up the laches in his case by recalling PW.1 and further cross examining PW.1. There is no valid ground mentioned in the affidavit to re open the case and the one mentioned in the affidavit is unacceptable. No such ground was mentioned in the written statement by the petitioner/defendant in this case. The petitioner cannot reopen and recall the evidence of PW.1 to his whims and fancies. By any stretch of imagination the petition could not be allowed, if this petition is allowed, it will cause irreparable loss and hardship to the respondent. The provisions of law quoted is wrong. Hence pray to dismiss the petition.

4) **Now the point for consideration is:** Whether the petition filed by the petitioner is allowed? Or not?

5) The learned counsel for petitioner submitted that the petitioner had obtained the certified copy only after the examination of PW.1. He had to contradict the above said petition with plaintiff to prove his case. Hence the petitioner/1st defendant has filing this application to recall of PW.1 which requires for the said purpose. Hence pray to allowing this petition.

6) In contra the learned counsel for 1<sup>st</sup> respondent submitted that The petitioner has not mentioned the details of the document regarding which he seeks to reopen and recall of PW.1. The petitioner cannot fill up the laches in his case by recalling PW.1 and further cross examining PW.1. if this petition is

allowed, it will cause irreparable loss and hardship to the respondent. Hence pray to dismiss the petition.

7) Heard both side. Perused the case records. The suit filed by this plaintiff for the relief of specific performance and also the relief of permanent injunction. While it has been contended that permitting the recall of PW.1 evidence at the instance of the 1st Respondent would necessitate rectifying defects in the Plaintiff's evidence, this Court is of the view that reopening the petition even if it results in the consideration of a document that appears adverse to the 1st Defendant will not, as a consequence, cause any prejudice to the 1st Respondent. Furthermore, given that this is a suit seeking specific performance a context in which the document in question is deemed to be of paramount importance this Court considers it to be in the interest of justice to afford an opportunity to the Petitioner / 1st Defendant by permitting to recall of PW.1 of the petition. Hence this point is answered accordingly.

In the result, this petition is allowed. No cost.

Pronounced by me in the open court, this **the 1<sup>st</sup> day of April 2026.**

**II Additional District & Sessions Judge,  
Thanjavur.**

**Petitioner and Respondents side  
Exhibits and Witnesses : Nil**

**II Additional District & Sessions Judge,  
Thanjavur.**