

IN THE COURT OF THE DISTRICT MUNSIF, ARNI.

PRESENT: Miss. D.V.Koperundevi,B.com.,L.L.B.,(Hons)

DISTRICT MUNSIF,

DISTRICT MUNSIF COURT, ARNI.

Monday, the 8th day of December 2025.

I.A. No. 03/2025

in

O.S. No. 56/2016.

1.M.Kuppan

2. P.Subrayan

3.K.Ezhumalai

... Petitioners/2 to 4 Defendants

/Vs/

1.S.Manigandan

...Respondent/Plaintiff

2.R.Samikannu (died)

3. S.Kumari

4.Kuppu

...2 to 4 Respondents/ 1, 5 & 6 Defendants

This petition came up before me for final hearing on 27.11.2025 in the presence of Thiru. K.R.Rajan, Advocate for the Petitioners/2 to 4 Defendants, and Thiru. C.Shanmugam, Advocate for the 1st Respondents/plaintiff, and 3rd and 4th Respondents were set exparte on 21.11.2025, and upon hearing both sides enquiry and perusing the material records of this petition and having stood over for consideration till this day, this court delivers the following:-

ORDER

The petitioner filed this petition under Order 18 Rule 17 and Section 151 CPC.

I. The gist of the averments in the petition filed by the 1st petitioner on behalf of the 3rd and 4th Defendants:

1. In the affidavit, the 1st petitioner herein is the 2nd defendant in the main suit. The Petitioner filing this affidavit on his behalf and on behalf of the 2nd and 3rd petitioners / 3rd and 4th defendants.
2. The above case has been wrongly filed by the 1st respondent / plaintiff seeking declaratory and injunction reliefs regarding the suit property. The petitioner request that the written statement filed by their side in the above case be treated as an integral part of this.
3. Today, the above case is posted for examining further witnesses on the plaintiff's side. The 1st respondent/plaintiff has been examined as the first witness on the plaintiff's side in the above case. The case was posted for his cross-examination by the petitioner side on 05.03.2024, and P.W.1 did not appear on that day, his evidence was closed, and the case was posted for examining further witnesses on the plaintiff's side. Only if the aforementioned witness is cross-examined on his behalf will the true state of the case come to the attention of the Hon'ble court. Therefore, it is very necessary to recall P.W.1 in order to know the justice of the petitioner side by cross-examining P.W.1 on his behalf.
4. Therefore, the petitioner humbly pray that the Hon'ble Court may be pleased to order the recall of P.W.1, as the petitioner have to cross-examine P.W.1 on his behalf in the aforementioned case.

II. The averments in the counter filed by the the 1st respondent:

1. The 1st respondent/plaintiff accepts some aspects mentioned in the petition filed by the petitioners/2nd to 4th defendants to re-examine a witness. He fully denies the other aspects. The petitioners/2nd to 4th defendants are obligated to prove the denied aspects orally and through documents. If they fail to prove them, this petition filed by the petitioners/2nd to 4th defendants should be dismissed according to law.

2. This petition is not admissible at this stage and is not applicable for investigation, not sustainable.
3. On behalf of the petitioners/2nd to 4th defendants, the plaintiff's witness P.W.1 was examined on 11.12.2023, followed by several adjournments for cross-examination. Further several adjournments for cross-examination of P.W.1 provided. However, as the petitioners/defendants 2 to 4 did not cross-examine the plaintiff's witness on 05.03.2024, the plaintiff's witness P.W.1 was closed without cross-examination by the petitioners/defendants 2 to 4, and the Hon'ble Court ordered the respondent/plaintiff to file further P.W.'s evidence.
4. The petitioners/defendants 2 to 4 have filed this petition only to delay the case and with the intention of harassing the respondent.
5. In this situation, the petitioners/defendants 2 to 4 have filed this Recall petition with the intention of causing mental distress to the 1st respondent/plaintiff and without stating any proper reason.
6. Therefore, the 1st respondent/plaintiff respectfully prays that the Hon'ble Court may dismiss the petition, impose costs against the petitioners/defendants 2 to 4, and issue any other appropriate orders as deemed fit under the circumstances.

III. Points:

1. Whether the petition under Order 18 Rule 17 and Section 151 of CPC to be allowed or not?

IV. Points for Consideration:

Heard on both sides. Records have been perused.

1. The petitioner, who is the plaintiff in O.S. No. 56 of 2016, has filed the present petition under Order XVIII Rule 17 of the Code of Civil Procedure seeking permission to recall PW1.
2. The respondents have filed a detailed counter opposing the petitions, contending that the suit, which is one for declaration, has already been

and posted for further PW2 cross. The plaintiff, having had ample opportunity during the pendency of the case for appearance of PW1, and failed to do and the stage of PW1 cross was closed.

3. It is evident to note that, on 29.11.2023, the case posted for marking of documents on the side of PW1, on the same day exhibits were marked and posted for cross of PW1, on 11.12.2023, on subsequent hearing from 19.01.2024 from 05.03.2024, the PW1 called absent so, the PW1 evidence closed and posted for further PW's.
4. On careful consideration of the rival submissions and upon perusal of the records, it is just and necessary to recall the PW1 evidence. Thusby in order to afford a fair and complete opportunity to both parties, this Court is inclined to allow the petition to recall the PW1, however, subject to strict conditions so as to prevent delay or prejudice to the defendants.

V. Result:

The petition filed under Order XVIII Rule 17 read with Section 151 CPC is allowed. This court is of the considered view that this petition, seeking recall of PW-1 deserves to be allowed with conditions. Further, on 05.01.2026, the petitioner recall and examine as PW-1, failing which, the petition will stand vacated automatically. Call on 05.01.2026, and Rs. 1000/- the petitioner has to pay directly to the TLSA, Arni.

Dictated to Steno Typist, and computerized by her directly, corrected and pronounced by me in the open Court, on the 8th day of December 2025.

**District Munsif
Arni**

List of documents & witnesses: N I L

**District Munsif
Arni**