

**III ADDITIONAL DISTRICT AND SESSIONS COURT  
TIRUVALLUR AT POONAMALLEE**

Present : **Thiru.C.VIJAYAKUMAR, B.A., B.L.,**  
III Additional District and Sessions Judge

**Monday, the 22<sup>nd</sup> day of June 2026**

**I.A.No.02/2026 in O.S.No.2/2017**

R. Kavitha, D/o. K. Ramakrishnan,  
residing at No.6/16,  
Saraswathi Pandurangan Street,  
Solapuram Ambattur, Chennai – 53.

..Petitioner / Defendant

**//Vs//**

G. Nallathambi, S/o. Gnanavel,  
residing at No.6, Gandhi Street,  
Elango Nagar, Ambattur, Chennai – 23.

... Respondent / Plaintiff

This petition came up before this court for final hearing on 04.06.2026 in the presence of H. Srikanth, S. Sivakumar, S. Sathiyaraj, K. R. Pranav learned counsel for the Petitioner / Defendant, M/s. M.V. Seshachari, C. Harini learned counsel for the Respondent / Plaintiff and upon hearing the both sides and on perusal of oral and documentary evidence, having stood over for consideration till this day, this court passed the following:

**ORDER**

The Defendant in the suit has filed this petition under Order XVIII Rule 17 of CPC and prayed to recall the DW1.

**2) The averments made in the common affidavit filed by the Petitioner / Defendant in support of the petition are briefly as follows:-**

The Petitioner / Defendant stated that the plaintiff had filed a suit against her to recover Rs.31,91,734/- which included interest on an alleged principal sum of Rs.20,000,000/- (erroneously noted in the text as twenty lakhs but written numerically as two crores). She disputed this debt, asserting that she never borrowed the amount and that the plaintiff had manipulated a blank signed paper collected during a separate, genuine Rs.6,00,000/- loan. Furthermore, she stated that during cross-examination, the plaintiff (PW1) made highly contradictory statements regarding the source and timeline of the alleged funds, claiming that the money was sourced from a mother-in-law's machinery sale and used for a son's medical college admission. Pointing to these self-contradictions across related suits (O.S. No. 2/2017 and O.S. No. 48/2017). Consequently, she prayed that the court reopen the evidence of DW1 and recall her to officially mark the plaintiff's deposition dated February 14, 2019, as an additional document. Therefore, the petitioner prayed to recall the DW1. Hence the petition.

**3) The averments made in the Counter statement filed by the Respondent / Plaintiff are briefly as follows:-**

The Respondent / Plaintiff submitted that the petition filed by the Petitioner / Defendant was not legally or factually maintainable and deserved to be

dismissed in limine. The Respondent denied all allegations, specifically refuting that the Defendant borrowed only Rs.6,00,000/- or that any blank papers were misused. Furthermore, the Plaintiff denied that the complaints or depositions across O.S. No. 2/2017 and O.S. No. 48/2017 contained self-contradictory statements or revealed mala fide intentions, noting that the document in question was within the Defendant's knowledge throughout the entire proceedings. The Plaintiff contended that the deposition of a living person could not be marked in evidence and that the Defendant, having already completed and closed her evidence, was filing this application at the argument stage solely to harass the Plaintiff, abuse the process of law, and delay the suit. Therefore, the petitioner prayed to dismiss the petition with costs.

4) On the side of the Petitioner/ Plaintiff and Respondents/ Defendants, no witnesses were examined and no documents were marked.

**5) The point arising for consideration is whether the petition has to be allowed ?**

**6) Point:**

Heard both sides. Perused the documents.

7) The above suit is filed by the Respondent / Plaintiff for recovery of money from the defendant. Upon perusal of the Complaint and Written Statement, issues were framed. Subsequently, the plaintiff was examined on his behalf and 6 documents were marked as Ex.A.1 to Ex.A.6; and the defendant Kavitha was examined on her behalf and three documents were marked as Ex.B.1 to Ex.B.3.

On 17.02.2026, the defendant side witness was closed. Presently, this suit is pending for Defendant's side arguments. Now, the Petitioner / Defendant filed this petition to recall the DW1 under Order XVIII Rule 17 of CPC.

**8)** Order 18 Rule 17 of the CPC grants the Court the discretion to recall any witness at any stage of the suit to clarify any issue or doubt. The provision is intended to enable the court to elicit further information to ensure a just decision. In the present case, the petitioner stated that, in order to mark the additional document. The defendant prayed to cross examine the PW1 to establish his case.

**9)** In these circumstances, to ensure a fair trial, it is essential to give the parties a full opportunity to produce the evidence and documents they rely on. This will assist the Court in effectively deciding the facts in issue. Therefore, in order to balance equities and to prevent prejudice to the petitioner, this Court is inclined to allow this petition.

**10)** In the result this petition is allowed ordered to recall DW1 for further cross  
No Costs.

Dictated to the Steno-typist directly, typed by him in the computer, corrected and pronounced by me in the open court, this the 22<sup>nd</sup> day of June 2026.

**III Additional District and Sessions Judge,  
Tiruvallur at Poonamallee.**