

**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 16th day of March 2026

I.A.No.04/2025 in O.S.No.148/2016

P. Roopraj, S/o. S.P. Kothari,
No. 26/17, Pillaiyar Koil Street,
Vadapalani, Chennai – 600 026.

..Petitioner / Plaintiff

//Vs//

K. Anbalagan, S/o. Kandhasamy Pillai,
No. 16, 7th Street, Pavendhar Bharathidasan Nagar,
Alapakkam, Chennai – 600 116.

..Respondent / Defendant

This petition came up before this Court for final hearing on 02.03.2026 in the presence of M/s. M.K. Murali learned counsels for the Petitioner / Plaintiff, M/s. B. Tamilmaran learned counsels for the Respondent / Defendant and upon hearing petitioner side arguments and having stood over for consideration till this day, this court passed the following:

ORDER

The Petitioner in the suit has filed this petition under Order XVIII Rule 17 of CPC and prayed to recall the PW1 to mark further documents on the side of the Petitioner/Plaintiff.

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

The petitioner herein is the plaintiff in the above suit, stated that they had filed documents along with a petition for their receipt, including a Xerox copy of a Canara Bank deposit receipt dated October 9, 2015, a State Bank of India deposit receipt dated November 4, 2008, and a Bank of Baroda deposit receipt dated November 9, 2016. The petitioner further stated that they intended to file a bank statement from the relevant period to demonstrate that funds were withdrawn to pay the defendant, asserting that the document's genuineness was beyond doubt. They explained that the failure to file this statement earlier was due to oversight rather than willful intent. Consequently, the petitioner filed the present application to recall PW1 to mark both the previously permitted three documents and the new statement of account. They maintained that allowing the application would cause no prejudice to the respondent, whereas a refusal would result in heavy, irreparable loss and serious hardship. Therefore the petitioner prayed to recall PW1 for the purpose of marking further documents on behalf of their side. Hence, the petition.

3) The averments made in the Counter affidavit filed by the Respondent are briefly as follows:-

The respondent/defendant stated that the contents of the plaintiff's affidavit had been read over and explained to him in Tamil, and he denied all the allegations therein as false and baseless. He was advised that the petition was an abuse of the process of law, vexatious, and unsustainable, and therefore liable to be dismissed in limine. He submitted that the suit had been filed for specific performance or the return of an advance amount, noting that the plaintiff had already completed his evidence and been fully cross-examined. He contended that the applications to recall the plaintiff and receive documents were an impermissible attempt to overcome lacunae and admissions made during cross-examination. He further pointed out that the plaintiff, a pawn broker and money lender, had a modus operandi of filing such suits, noting that a similar case in O.S.No.5085 of 2019 had been dismissed. The respondent asserted that the bank statements the plaintiff now sought to file were irrelevant business records and that the request was a mere afterthought. He argued that allowing these pleadings would cause him irreparable loss, as the plaintiff was attempting to introduce new claims not found in the original plaint or proof affidavit. Hence, this petition is liable to be dismissed.

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 Petitioner / Plaintiff for a Specific Performance of the registered deed of sale agreement; in alternatively direction to the defendant to pay a sum of Rs.63,00,000/- with interest at the rate of 24% per anum; a charge decree over the suit property for the realization amount. After settlement of Issues the Plaintiff examined himself as PW1 and Ex.A.1 to Ex.A.15 and during cross examination of PW1, Ex.B.1 to Ex.B.6 were marked through him and this suit is pending before this court for plaintiff side further witness. Now, the Petitioner / Defendant filed this petition to recall the PW1 for the purpose of marking documents 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.

9) In the present case, the petitioner produced three documents to receive as the additional documents along with the application under order VII Rule 14(iii) of CPC. Simlutaneously, he filed the present application to recall the PW1 for marking these documents. Per contra, the The respondent contended that since the plaintiff's cross-examination was already complete, the request to recall witnesses and submit new documents was an illegal attempt to fix gaps in testimony. He further asserted that the plaintiff, a money lender, was using irrelevant bank statements as an afterthought to grab his property.

10) 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.

11) In the result this petition is allowed and Pw1 is ordered to recall for cross examination. 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 16th day of March 2026.

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

Both side Witnesses and Exhibits : NIL

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