

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

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

**Wednesday, the 8<sup>th</sup> day of April 2026**

**I.A.No.4/2025 in O.S.No.490/2022**

1) B. Dharanikumar, S/o. Balaraman,  
No.43/129, Baraka 1<sup>st</sup> Street, Namalwarpet,  
Perambur Barracks, Chennai – 600 012.

2) Kanchana Devi, W/o. B. Dharanikumar,  
No.43/129, Baraka 1<sup>st</sup> Street, Namalwarpet,  
Perambur Barracks, Chennai – 600 012.

..Petitioners / Defendants

//Vs//

1) V. Dineshkumar, S/o. Vedavinayagam,  
No.41, 1<sup>st</sup> Cross street, Manthoppu,  
Cholambedu Road, Krishnapuram Extension,  
Ambattur, Chennai – 600 053.

2) V. Santhosh Kumar, S/o. Vedavinayagam,  
No. 799/74, CTH Road, Thirumullaivoyal,  
Chennai – 600 012.

..Respondent / Plaintiff

This petition came up before this Court for final hearing on 12.03.2026 in the presence of M/s. S. Balamurugan learned counsel for the Petitioners / Defendants, M/s. P.S. Mathisekaran learned counsel for the Respondent / Plaintiff and upon hearing both side arguments and 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 XVII Rule 18 of CPC and prayed to recall of PW1 cross examination.

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

The 1<sup>st</sup> petitioner/ 1<sup>st</sup> defendant submitted that the respondent/plaintiff had filed a suit for recovery of possession against them and that the case had been posted for the cross-examination of the plaintiff (PW1) on 02.12.2024. However, the defendant claimed he was suffering from a viral fever on 28.11.2024, which prevented him from meeting with his counsel to discuss the cross-examination. Consequently, the counsel did not cross-examine PW1 and allegedly failed to inform the defendant of the proceedings despite requests. Due to the lack of cross-examination, the court closed the plaintiff's side of the evidence, as well as the defendant's evidence, and posted the matter for arguments on 09.04.2025. The defendant asserted that he was not given a fair opportunity to substantiate his case, despite having a strong chance of success. Therefore, he requested to recall PW1 for cross-examination. Hence, the Petition.

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

The Respondents submitted that the petitioners were tenants in the suit originally filed for recovery of possession and rent arrears. The Respondent further stated that despite an agreed monthly rent of Rs.50,000, the petitioners had willfully failed to pay, accumulating arrears of Rs.26 lakhs during the pending suit. He contended that the petitioners' claims lacked merit and were filed solely to remain on the property without payment. To test the defendants' honesty, he requested the court to direct them to deposit the Rs.26 lakhs in arrears. Hence, the 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 or not ?

**6) Point:**

Heard both sides. Perused the documents.

7) The above suit is filed by the Respondent / Plaintiff seeking recovery of possession and for rent arrears against the Petitioners / Defendants. After settlement of Issues the Plaintiff No1 examined himself as PW1 and Ex.A.1 to Ex.A.13 were marked through him. Presently, this suit was posted for,

Arguments. Now, the Petitioner / Defendant filed this petition to recall the PW1 for cross examination 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. Though the petitioner filed this petition under order 17 rule 18 cpc this court has to consider the petition under order 18 rule 17 cpc.

**9)** In the present case, the petitioner stated that, he was suffered with viral fever which prevents him to discuss the points with his counsel before the cross examination of PW1. So as, his counsel has not cross examined the PW1. To establish his case, he seeking permission to cross examination of PW1.

**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 . 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 ordered to recall Pw1 for further cross examination. The petitioner is directed to pay a cost of Rs 2000/- to the respondent for the inconvenience caused to them within a period of one month. The payment of cost is not a pre condition for this application.

Dictated to the Steno-typist directly, typed by him in the computer, corrected and pronounced by me in the open court, this the 8<sup>th</sup> day of April 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.**