

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

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

Tuesday, the 23rd day of June 2026

I.A.No.3/2026 in O.S.No.381/2023

Mrs. V. Sumangala Devi, W/o. S. Vishwanathan,
16/41A, Thendral Nagar East, 10th cross Street,
Thirumullaivoyal Village, Ambattur Taluk,
Thiruvallur – 600 062.

..Petitioner / Defendant

//Vs//

G. Sridhar, S/o. K.R. Gajendran,
No.24, Arunodhaya Apartments,
Choolaimedu High Road,
Chennai – 600 094.

..Respondent / Plaintiff

This petition came up before this Court for final hearing on 10.06.2026 in the presence of M/s. B.L. Jayakandhan, learned counsel for the Petitioner / Defendant, M/s. Velmurugan, Parthiban, Parameshwari, Palani, 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 Section 151 of CPC and prayed to reopen the plaintiff side evidence for the cross examination of PW1 05.03.2026.

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

The Petitioner / Defendant submitted that the Respondent / Plaintiff had filed the suit seeking a direction for the Defendant to pay Rs.35,20,000/- which consisted of a Rs.16,00,000/- principal amount and Rs.19,20,000/- accrued over 48 months, along with future interest at 3% per annum and costs. The Defendant stated that the matter was listed on March 5, 2026, for the cross-examination of the Plaintiff. However, due to age-related illnesses, hypertension, diabetes, and a cardiovascular condition requiring hospitalization at Cherish Hospital and Madras Medical Mission Hospital followed by a recommendation for a month of absolute bed rest, she could not attend court. Consequently, she was proceeded against ex-parte, and her right to cross-examine the Plaintiff was closed. The Defendant asserted that her medical condition prevented her from filing a timely application, and she argued that rejecting the application would cause her immense hardship while causing no prejudice to the Plaintiff. Therefore, she 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 Respondent submitted that the petitioner had been afforded sufficient opportunities by this Court to adduce evidence and proceed with the case, but

had failed to utilize them, making the petitioner solely responsible for the situation. The Respondent contended that the reasons stated in the affidavit did not constitute sufficient cause for recalling or reopening the petition. It was further noted that the petitioner had filed a vakalath on December 18, 2023, but delayed filing the written statement until December 6, 2024. Additionally, the petitioner had previously filed a memo on February 12, 2026, seeking an adjournment due to the demise of the counsel's father, and the Respondent contend that the petitioner misguiding the court with a completely different reason. The Respondent asserted that the petitioner's conduct throughout the proceedings clearly demonstrated that the application was filed with mala fide intentions solely to delay the disposal of the long-pending suit and abuse the court process. Finally, the Respondent stated that allowing the petition would cause serious prejudice and hardship to the Respondent. Hence, the Petition is liable to be dismissed.

4) On the side of the Petitioner/Defendant and Respondents/ Plaintiff, 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 sum of Rs 35,20,000/with subsequent interest from the Petitioner / Defendant. After settlement of Issues the Plaintiff No1 examined himself as PW1 and Ex.A.1 to Ex.A.7 were marked through him. Presently, this suit was posted for, Plaintiff side further witness. When this case was posted on 05.03.2026 for cross examination of PW1 due to the absence of Pw1 this court suomoto closed the evidence of Pw1. The Petitioner / Defendant now filed this petition to reopen the plaintiff side for cross examination .

8) In the absence of any provision providing for reopening of evidence or recall of any witness for further examination or cross-examination, for purposes other than securing clarification required by the court, the inherent power under Section 151 of the Code, subject to its limitations, can be invoked in appropriate cases to reopen the evidence for further examination.

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

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 ordered to reopen the palintiff and defendant side to cross PW1 and to produce defendnat side evidence.

Dictated to the Steno-typist directly, typed by him in the computer, corrected and pronounced by me in the open court, this the 23rd day of June 2026.

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