

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

Present : Tmt. R.D. Gurulakshmi, M.A., M.L., P.G.D.I & C.L.,

District Munsif, Tiruttani.

Dated the Friday of 14th Day of February 2025

I.A.No.3/2025 in OS.No.6/2018

(CNR.No.TNTR21-000006-2018)

...

1. Neelakandan
2. Duraisamy
3. Mohan
4. Dillibabu

...Petitioners/ 1 to 3, 7 Defendants

/Versus/

1. M. Jayaraman
2. Vasanthammal (died)
3. The Station House Officer, K.K. Chattram Police Station,
4. The Inspector of Police,
Tiruvalangadu Circle

... 1st Respondent/Plaintiff

..2 to 4 Respondents/4 to 6 Defendants

This petition came up before me for final hearing on 10.02.2025 in the presence of M/s. G. Kamalakannan, Advocate for Petitioners/ 1 to 3, 7 Defendants, M/s.V.S. Velayudham, J. Saravanan and I. Sudhapriayan, Advocates for 1st Respondent/Plaintiff, 2nd respondent died, R3, R4 were set exparte in suit. Upon hearing both side, after perusing records and having stood over for consideration till this day, this court delivered the following:

ORDER

This petition is filed under Order 18 Rule 17 of CPC to recall the Pw1 for cross examination.

1. The averments of the petition in brief are as follows:-

(a) The case was posted for Pw1 cross. Due to the petitioner's personal work at various places and also affected by viral fever, the petitioner could not able to give instructions to his counsel to cross examine the Pw1. Meanwhile the petitioner's counsel also fell ill with viral fever. The other petitioners in this case are all very old aged persons and could not move out of bed. So they also unable to meet the counsel.

(b) Due to unavoidable circumstances, due to rainy seasons and the petitioner's wife also given birth of child in which the petitioner was gone to and from hospital at Tiruvallur, the petitioner could not able to concentrate in case also. Meanwhile the evidence of Pw1 closed without cross examination. The cross

examination is utmost required to prove the petitioner's case. The petitioner has got good case on merit. Hence may be permitted to recall the Pw1 for cross examination. Therefore the petitioner filed this petition.

2. The counter filed on behalf of the 1st Respondent in brief:-

(a) The petition is not maintainable either in law or on facts of the case. The allegations in the petition are all false. The evidence of Pw1 took very long back and his counsel are also present in each and every hearing. They never filed any adjournment petition for cross of Pw1 with the aforesaid reasons it will prove that the petitioners filed this false petition to drag on the proceedings. Further the petitioner's averments stated in 2nd para of affidavit are unbelievable and no medial record produced to prove the same.

(b) The Pw1 namely Elumalai also aged person and he came to court regularly and his evidence was closed after sufficient time given by this court. The petitioners also not given evidence and defendants evidence also closed and thereafter this petition was filed belatedly and no merits in the petition and affidavit. The reasons are invented for the purpose of filing of this petition. The intention of the petitioners are only to drag on the proceedings and to avoid to conduct the case. The petition has no merits and fully devoid of facts and liable to be dismissed. If this petition is allowed, this respondent will be put into much loss and hardship. Hence this petition for reopen has to be dismissed

3. Point for determination:

Whether the petitioners are entitled to the relief as sought for? or not?

4. According to the petitioner, due to his personal work at various places and also affected by viral fever, the petitioner could not able to give instructions to his counsel to cross examine the Pw1. Further the petitioner's counsel also fell ill with viral fever. Hence, the evidence of Pw1 closed without cross examination. The cross examination is utmost required to prove the petitioner's case. The petitioner has got good case on merit. Therefore the petitioner prays to allow this petition. The 1st Respondent resisted the petition by contending that the Pw1 namely Elumalai also

aged person and he came to court regularly and his evidence was closed after sufficient time granted by this court. This petition was filed belatedly and no merits in this petition. The reasons are invented for the purpose of filing of this petition. The intention of the petitioners is only to drag on the proceedings. Hence prays to dismiss this petition.

5. Heard learned counsel for the both the parties. On perusal of record, the above case was posted in the special list on 06.07.2024. On 06.08.2024 Pw1 present and examined in chief and further examined in chief on 17.10.2024 and posted for cross of Pw1 on 17.10.2024. On 17.10.2024, 24.10.2024 Pw1 not present. On 04.11.2024 when the Pw1 present counsel for petitioner prays time. Since the petitioner counsel not ready to cross examine the Pw1, the Pw1 cross closed and posted to plaintiff side further evidence. Further this case posted for defendants side evidence on 09.12.2024.

6. On 09.12.2024, 16.12.2024, 21.12.2024, 08.01.2025 petitioner not ready for evidence. Hence petitioners side evidence closed and posted for arguments. In this stage this petition filed to reopen and recall the Pw1 for cross. In spite of sufficient opportunities granted to petitioners, petitioners not ready for cross the Pw1. Petitioners wantonly drag on the proceeding without any valuable reasons. No medical evidence or supporting documents produced to show the ill-health of petitioner or his counsel. Even though considering the fact and circumstances of this case, this court is of view that in the interest of justice to provide the petitioners an opportunity to prove their case, this petition has to be allowed on terms.

In the result, this petition allowed on condition that the Petitioners have to pay a sum of Rs.1000/- to the 1st respondent/plaintiff on or before 21.02.2025 failing which this petition stands dismissed. Call on 21.02.2025.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 14th day of February 2025.

District Munsif,
Tiruttani.

Petitioner and Respondents side Exhibits and witness: NIL

District Munsif,
Tiruttani.