

**BEFORE THE PRINCIPAL DISTRICT COURT
VELLORE DISTRICT**

Present:- Thiru.M.Elavarasan
Principal District Judge

Monday, the 20th day of April, 2026

I.A.No. 4 of 2025
in
O.S.No.140 of 2024

Rajesh ... Petitioner/ Defendant

-Vs-

Podhumani ... Respondent/Plaintiff

This petition is coming before me for hearing today in the presence of Thiru. N.Raghupathy, counsel appearing for the petitioner and Thiru.M.Balaji, counsel appearing for the respondent and upon hearing both sides and on perusal of entire case records, this court delivers the following:-

ORDER

This petition is filed under Order 18 Rule 17 and Section 151 of CPC; to recall PW1 in the above case for the purpose of cross examination.

2. The Brief averments in the petition is as that the petitioner is the defendant in the suit. When the case was posted for cross examination of PW1 on 14.11.2025, on the said date, the petitioner was suffering from

jaundice and undergoing native treatment, due to which the petitioner was unable to appear before this court and instruct his counsel to cross-examine the PW.1. There are several important aspects to be elicited in cross examination which are necessary for proper adjudication of the suit. Unless the case is reopened and P.W.1 is recalled for cross-examination, the petitioner will be put to irreparable hardship and loss. Hence, this petition.

3. The Brief averments made in the counter filed by the respondent is as that the averments made in the petition is denied by respondent. The petition filed by the petitioner/defendant seeking reopening and recall is not maintainable either in law or on facts and is liable to be dismissed in limine. The allegation that the petitioner was suffering from jaundice and undergoing native treatment on 14.11.2025 is wholly unsupported by any medical records, certificates or acceptable documentary proof. The petitioner and his counsel remained absent for considerable period from 09.07.2025 till 20.11.2025. The petitioner also failed to participate in mediation proceedings, clearly demonstrating negligence and lack of bonafides. Only to drag on the proceedings the present petition is filed and prayed for dismissal of the petition.

4. Heard both sides. Perused the records. Considered the submissions raised by both sides.
5. Now only point for consideration before this court is whether the petition can be allowed or not?
6. The petitioner / defendant filed this petition to recall the PW1 for the purpose of cross examination. The respondent / plaintiff vehemently opposed the petition averments.
7. Perusal of records would go to show that the respondent / plaintiff filed the suit in O.S.No.140 of 2024, for recovery of money and PW1 was examined on 14.11.2025. Since the defendant set exparte, the plaintiff side evidence was closed and now posted for further evidence. At this stage, the petitioner filed petitions to reopen and recall petition for cross examination of PW1, contending that several important aspects to be elicited in cross examination which are necessary for proper adjudication of the suit . The reason stated by the petitioner for non cross examination of PW1 is that the petitioner was affected by jaundice and taking country treatment on the above said date. The counsel for the respondent vehemently opposed that the petitioner is dragging on the proceedings and filing petitions one after other

and that no medical records have been produced and that the petition is filed only to drag on the proceedings, the present petition is filed and prayed for dismissal of the petition.

8. Admittedly, the suit has been filed in the year 2024 and the petitioner / defendant filed his written statement on 22.01.2025 and Issues were framed on the same day. Further, another suit in OS No.169 of 2024 was also tried along with this suit. Since the petitioner counsel not come forward for cross examining the respondent/plaintiff, the petitioner was set exparte on 14.11.2025. Now, the exparte decree passed against the petitioner / defendant was set aside. Even though the petitioner has not filed any documents in support of his illness and taking of native treatment, the petitioner / defendant has to be given sufficient chances to prove his defence. Further, there are no serious objections from the respondent, except the fact that the petitioner is dragging on the proceedings. Hence, in order to give a chance to the petitioner, in order to avoid multiplicity of proceedings, this court is inclined to allow this petition. At the same time, considering the inconvenience caused to the respondent / plaintiff, this court is inclined to allow this petition on condition that the petitioner has to pay a sum of Rs.1000/- to the respondent

on or before 27.04.2026 failing which the petition stands automatically dismissed. Accordingly, the point is answered.

9. In the result:

(i) The petition is allowed on condition that the petitioner shall pay a cost of Rs.1,000/- (Rupees One Thousand only) to the respondent on or before 27.04.2026, failing which this petition shall stand automatically dismissed;

(ii) Call on 28.04.2026.

Dictated to the Steno-typist, directly typed by him in computer and pronounced by me in the Open Court, on this day the 20th day of April, 2026.

Principal District Judge
Vellore District

Annexures :- NIL

P D J
Vlr