

**IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM,
VELLORE DISTRICT.**

Present: **Tr.K.Karthick Asath, B.A.,B.L.,(Hons).,LLM.,**
District Munsif,
Gudiyattam.

Friday, this the 07th day of November 2025

I.A. 03/2025
in
O.S.No. 25/2021

S. Selvam Petitioner/ Defendant

// Versus //

B. Rajarathinam Respondent/ Plaintiff

This petition came up on 13.10.2025 before me for final hearing in the presence of Thiru.K.M.Boopathi, Advocate for Petitioner and Thiru.J.Arumugam, Advocate for the respondent and upon perusing the case records and having stood over for consideration till this day this court delivered the following.

Order

Petition filed under Order 18, Rule 17 and Section 151 of Code of Civil Procedure to recall of DW1 and let in further oral and documentary evidence of the petitioner/defendant side in the above case and pass necessary order.

1. The averments of the petitioner in the application:-

The petitioner submit that the respondent herein has filed the above said suit for mandatory injunction against him and the same was posted for further evidence of defendant side. Infact the petitioner have examined

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himself as DW1 and at the time of examination he could not file some documents which are necessary to the present suit. Now only the petitioner obtained those necessary documents. The delay in filing the present application in the above said suit on his side is neither willful nor wanton and there is no willful default on the part of his side. In order to prove his case the petitioner will have to let in further oral and documentary evidence on his side. If this Hon'ble court has grant one more chance to let in further oral and documentary evidence on his side for proper and complete adjudication the petitioner will prove his case. Otherwise the petitioner will have put to loss and hardship. Hence the petitioner filing the present application to recall him to let in further oral and documentary evidence on his side in the above said case. If the petition is not allowed the petitioner will be put to great loss and hardship.

**2. The averments of the counter filed by the respondent:-
(counter filed in I.A.2/2025 is adopted)**

The respondent/plaintiff contends that the petition lacks a valid and sufficient reason for the delay. The reasons provided are irrelevant and do not justify the failure to file these documents in a timely manner. Furthermore, the documents listed at serial numbers 1 to 5 are certified copies, not the original documents. The petitioner has failed to provide any explanation for the non-availability of the original documents, which is a prerequisite for seeking to admit certified copies as evidence. The respondent/plaintiff specifically raises a serious objection regarding the authenticity of the documents. It is submitted that the Town Survey

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Register Extract (Serial No.5) appears to be a fabricated document. In addition, the Business Tax Receipt (Serial No.6), Water Tax Receipt (Serial No.7), and Property Tax Receipt (Serial No.8) are also believed to be fabricated. As per the provisions of the Indian Evidence Act, specifically Sections 60 to 63, it is the original documents that are admissible as primary evidence. Certified copies can only be admitted under specific circumstances, such as when the originals are lost or destroyed, and the party must provide a proper explanation. The petitioner has not satisfied these legal requirements. Moreover, under Section 57(5) of the Registration Act, certified copies can be admitted, but this is subject to the court's discretion and a proper legal foundation, which has not been established in this petition. The certified copies filed by the petitioner/defendant have not been compared with the originals by this court, and the petitioner has not explained the whereabouts or non-availability of the originals. For these reasons, the documents filed by the petitioner/defendant are inadmissible and should not be marked as evidence on the defendants behalf.

3. Both side enquiry heard.

4. Point for consideration:-

Whether this application is liable to be allowed ?

5. Evidence:-

Neither of the parties to this application have adduced any oral or documentary evidence.

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6. Discussion:-

On considering the submissions made by the both counsels and perusing the available records this court delineate and proceeds its findings based on the following discussion.

6.1. The petitioner is the defendant in the suit. While the suit pending for defendant side evidence. The petitioner filed the present petition to recall DW1 for adduce further oral and documentary evidence. The respondent adopted his counter filed in I.A.02/2025. In that counter he stating that the documents Serial No.1 to 5 are certified copies and the petitioner failed to provide explanation for non availability of original documents and further objected that serial No.5 and 6 documents are believed to be fabricated.

6.2. On perusing the present petition the petitioner stated that he could not filed those documents at the time of examining himself as DW1 hence to prove his case he has to permitted to let in oral and document evidence hence pray to recall DW1. The respondent originally filed counter for the permission petition filed by the petitioner for receive additional documents. There is no specific objection raised by the respondent for recalling the DW1. Hence their is no sufficient cause for disallow the petition. On considering the nature of suit and stage of case, this court thinks necessary opportunity should be given to parties for adduce evidence to prove their case. Hence this court inclined to allow this petition.

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7. Result:-

As a result this petition is allowed without cost.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 07th day of November 2025.

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Petitioner side Witnesses and Exhibits :- Nil

Respondent side Witnesses and Exhibits :- Nil

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