

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

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

Saturday, this the 04th day of July 2026

IA.06/2026 & IA.07/2026

in

O.S.No.05/2015

1. Kokila (Died)
2. M. Kannammal
3. K. Kasthuri

.... Petitioners/ Defendants

// Versus //

A. Ajay

.... Respondent/ Plaintiff

These petitions came up before me on 25.06.2026 for final hearing in the presence of Thiru.K.Kathirvel, Advocate for the Petitioners and Thiru.V.Kuppan, Advocate for the respondent and upon perusing the case records and having stood over for consideration till this day this court delivered the following.

COMMON ORDER

The IA.06/2026 is filed under Section 151 of Code of Civil Procedure to reopen the above said suit which was closed on 08.06.2026 and the IA.07/2026 is filed Under Order 18 Rule 17 and Section 151 of Code of Civil Procedure to recall the PW1 for further cross and pass necessary orders.

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1. The averments of the petitions:-

The petitioners submit that the respondent/plaintiff has filed the above said suit for specific performance against the 1st petitioner. Now the suit posted for arguments. The plaintiff got ex parte decree and has been examined as PW1 and Ex.A1 to Ex.A3. After that ex parte decree set aside and we have contested the suit. The respondent filed additional chief affidavit and stating that chief affidavit already filed by the may be read as part and parcel of the additional chief affidavit and my side not cross examined the plaintiffs proof affidavit. Hence I have to cross examined the PW1 chief affidavit and now only came to know about the fact and it is necessary to cross examine the PW1 to prove my side. Otherwise the petitioner would put to great hardship and loss.

2. The averments of the counter filed by the respondent:-

The respondent submit that suit pending from the year 2015 and case pending for both side argument. The plaintiff examined as chief on 10.11.2025 in that chief affidavit itself mentioned that earlier chief affidavit may be read as part and parcel of this chief affidavit. The petitioner counsel fully cross examined PW1 on 17.11.2025 subsequently the petitioners have filed petition to recall of PW1 for further cross vide IA.05/2025 and the same was allowed and PW1 cross examined on 09.01.2026. The petitioners cross examined to the PW1 based on chief affidavit and the facts stated in the chief affidavit. While the petitioner counsel cross examined the PW1 twice hence the question of reopen and recall of PW1 once again to cross examine based on earlier chief does not

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arise. The petition filed by the petitioner in order to drag on the proceedings and harass this respondent hence the petition is liable to be dismissed with cost.

3. Both side enquiry heard.

4. Point for consideration:-

Whether these applications are liable to be allowed ?

5. Evidence:-

Neither of the parties to these applications have adduced any oral or documentary evidence.

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 petitioners are the defendants in the main suit. The respondent is the plaintiff in the main suit. The respondent filed suit for specific performance against the 1st petitioner in the year 2015 and obtained ex parte decree on 13.02.2015. Subsequently the 1st petitioner filed set aside ex parte decree and it was allowed by the Hon'ble Sub Court in CMA.02/2023 on 21.06.2024. This court framed issues on 25.07.2024 and posted for trial subsequently 1st petitioner died the petitioners 2 and 3 are impleaded. While the suit posted for evidence the respondent filed additional chief affidavit stating that to consider the previous chief examination of PW1. The petitioner counsel also cross

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examined the PW1 on 17.11.2025 and further cross examined PW1 by recalling him vide IA.05/2025. In such circumstances while the suit posted for both side argument on 22.06.2026 the present petitions are filed by the petitioner stating that the PW1 not cross examined based on his earlier chief affidavit filed on 12.02.2015 hence he has to be cross examined. The respondent filed counter stating that the petitioner counsel already cross examined PW1 twice based on the proof affidavit hence cross examine PW1 will not arose.

6.2. On perusing the available records in this case the PW1 initially chief examined on 12.02.2015 while he was subsequently examined on 27.10.2025 the plaintiff side filed additional chief affidavit by mentioning to consider the earlier chief as part and parcel of additional chief affidavit. On perusing the 12.02.2015 chief the respondent examined himself as PW1 and marked Ex.A1 to Ex.A3 documents. Even the PW1 cross examined on 17.11.2025 and 09.01.2026 those documents are not mentioned and cross examined by the petitioner side. While the earlier chief affidavit dated 12.02.2015 was not served to the petitioner side then they could not be able to cross examine the PW1 based on the chief affidavit. Hence the reasons stated by the petitioner is acceptable. But the petition is filed only after cross examination of PW1, PW2 and adduce the evidence of DW1 with delay. While the suit posted for argument then only the petitioner filed this petitions to reopen and recall the PW1 for further cross, nearly after 4 months from the date of closing of plaintiff side evidence. For avoid multiplicity of proceedings and interest of justice this court inclined to allow these petitions on cost.

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7. Result:-

As a result these petitions are allowed, on condition to pay cost Rs.500/- to the PW1 on his appearance and petitioner side directed to cross examine the PW1 without getting any further adjournment.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 04th day of July 2026.

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Petitioners side Witnesses and Exhibits :- Nil

Respondent side Witnesses and Exhibits :- Nil

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