

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

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

Tuesday, this the 09th day of December 2025

I.A. 05/2025
in
O.S.No. 05/2015

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

.... Petitioners/ Defendants

// Versus //

A. Ajay

.... Respondent/ Plaintiff

This petition came up on today before me for final hearing in the presence of Thiru.K.Kathirvel, Advocate for 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.

Order

Petition filed under Order 18, Rule 17 and Section 151 of Code of Civil Procedure to recall of PW1 for further cross on the petitioners/defendants side and pass such other orders.

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

The petitioner submit that the respondent/plaintiff has filed the above said suit for specific performance as against the 1st petitioner/1st defendant and after the death of the 1st petitioner the petitioners have impleaded us as 2 and 3 petitioners/defendants 2 and 3 and on behalf of our

side the petitioners counsel has cross examined the PW1 and at the time of cross examination some important points are omitted by our counsel his mistake and oversight and now only the petitioner came to know the said fact and the said questions are very important to decide his case, if the questions are not raised with the PW1 the petitioner could not able to prove her side and now only the petitioner came to know the said facts. The said mistake is neither wilfull nor wonto. Hence the petitioner filing this application may pleased to pass an order to recall of PW1 for further cross examination on behalf of her side. Otherwise the petitioner would put into great hardship and loss. It the petition is allowed, no pre-judice will be caused to other side.

2. The averments of the counter:-

The respondent submit that the above said suit is pending from the year of 2015 and now the said case is pending for further evidence of this respondent/plaintiff's side. The respondent/plaintiff has examined as chief on 10.11.2025 and the petitioners/defendants counsel has cross examined the PW1 on 17.11.2025 and the said case is posted for further evidence on 27.11.2025. On that the petitioners have filed the present petition to recall of PW1 for further cross examination with false and baseless allegations in order to harass the plaintiff and drag on the proceedings. The respondent further submits that originally the 1st defendant has filed her written statement and after her death the defendants 2 and 3 have filed additional written statement and both written statements are having inconsistency plea. In fact the defendants 2 and 3 have no locus standi to take inconsistency plea against the original 1st defendant plea. Further the defendants cannot depose evidence against the registered document of

agreement of sale executed by the 1st defendant infavour of the plaintiff. Further without pleadings cannot be cross examine the PW1. In fact based on written statements filed by the defendants has cross examined the PW1 on 17.11.2025, hence once again for further cross of PW1 regarding important points are does not arise.

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.

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 3rd defendant in the suit. The respondent/plaintiff filed suit for specific performance against the petitioners. While the suit pending for further plaintiff side evidence, the petitioner filed this petition on 27.11.2025 to recall the PW1 for cross examination. In the petition the petitioner stated that his counsel omitted some important points by oversight and those questions are very important to decide the case.

6.2. The respondent/plaintiff filed counter submitted that no acceptable reason is stated in the petition for seeking recall of PW1. The defendants counsel cross examine PW1 on 17.11.2025 hence further cross of PW1 not arisen. On perusing the available records, the plaintiff examined as PW1 on 27.10.2025, and subsequently PW1 cross examined by the petitioner counsel on 17.11.2025 on that PW1 evidence closed on that day. On the next hearing on 27.11.2025 the petitioner filed this petition to recall PW1 for further cross. On perusing the reasons this court satisfied. On considering the nature of suit and the present petition filed without any delay, this court thinks necessary opportunity to be given to the opposite side to contradict the testimony of PW1 to prove his case and for avoid multiplicity of proceedings this court inclined to allow this petition on cost.

7. Result:-

As a result IA.05/2025 for recall the PW1 for cross examination is allowed without cost.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 09th day of December 2025.

**District Munsif,
Gudiyattam.**

Petitioner side Witnesses and Exhibits :- Nil

Respondent side Witnesses and Exhibits :- Nil

**District Munsif,
Gudiyattam.**