

Order

The application filed Under Order 18, Rule 17 of Code of Civil Procedure to recall the DW1 for marking of documents and pass such other order.

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

The petitioner submits that the above suit is filed by the respondent/plaintiff against petitioners and at the time of filing his written statement the petitioner have unable to produce the petition mentioned documents an he have explained detail of the petition mentioned document, but unfortunately which unable to filed at the time and now only the petitioner have traced it while the petitioner searching another some documents in his house and that the accompanying petition mentioned documents are original and the petitioner want to mark the same on his side evidence. Further the petitioner have filed the 1st suit as against the 1st and 2nd defendant before this Hon'ble court vide O.S.No.273/2010 and the same was decreed and now the respondent has prepared an appeal vide A.S.No.8/2015 before the Hon'ble court and the same was pending, but the above said details are suppressed by the respondent/plaintiffs, hence the petitioner want to prove his case through the petition mentioned documents. But unfortunately the petitioner unable to file it earlier, but the petitioner got an permission to mark the petition mentioned document from this Hon'ble court vide I.A.No.8/2024 on 02.01.2025. There is no prejudice to the respondent/plaintiff if this petition is allowed and receiving of the petition mentioned documents. Hence the petitioner have filed this petition mention certified documents along with this DW1 recall petition. Unless allow this petition the petitioners will be put to great loss and hardship.

2. The averments of the counter filed by the 4th respondent:-

The respondent submit that the petitioner at present filed the judgment and decree of the O.S.273/2010, but the documents are not relevant to the case. Against the decree A.S.8/2015 is pending hence filing of the suit documents are not acceptable. The other documents namely House tax receipt, Ration card, Voter ID, Chitta are subsequent documents obtained of filing of the suit hence prayed to dismiss the petition.

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 petitioners are the 1st and 2nd defendant in the main suit. The respondents 1 to 7 are filed Declaration and Permanent injunction suit against the petitioners and respondents 8 to 10. While the suit was pending for further defendant side witness, the petitioners filed this present petition to recall the DW1 for marking of documents. In the petition the petitioners stated that already I.A.No.8/2024 is filed for receiving the additional documents is allowed by this court on 02.01.2025, Hence marking of those documents through DW1 will not cause any prejudice to the respondents.

6.2. On perusing the objection filed by the 4th respondent she denied that those documents are not relevant to the present case. On considering the reasons stating in the petition, while already this court allowing the I.A. to receiving those additional documents, till today no appeal is filed by the respondents against the above order. Now the petitioners seeking to mark those additional documents by recalling DW1. The objection regarding relevancy and admissibility of documents will be considered at the time of marking. This court thinks equal opportunity will be give to the parties to elucidate their case. Allowing of this petition will not cause any prejudice to the respondents. Hence this court inclined to allow this petition.

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 14th day of October 2025.

**District Munsif,
Gudiyattam.**

Petitioners side Witnesses and Exhibits :- Nil

Respondents side Witnesses and Exhibits :- Nil

**District Munsif,
Gudiyattam.**