

**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 28<sup>th</sup> day of April 2026

**IA.05/2026**  
**in**  
**OS.105/2021**

1. P. Rajendiran
2. P. Purushothaman
3. P. Chittibabu

.... Petitioners /Plaintiffs

// Versus //

Govindaraj

.... Respondent/ Defendant

This petition came up on 18.04.2026 before me for final hearing in the presence of Thiru.K.M.Boopathi, Advocate for the Petitioners and Thiru.K.Loganathan, Advocate for the Respondent and upon perusing the case records and having stood over for consideration, this court delivered the following.

**ORDER**

This petition filed Under Section 151 of Code of Civil Procedure to order to eschew the chief affidavit filed by PW3 namely Dillibabu and pass such other orders.

**1. Brief Averments of the Petition:-**

The petitioner stated that he filed suit for permanent injunction against the respondent/defendant and now the suit posted for cross of PW3.

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Infact one Dillibabu as PW3 filed his chief affidavit on their side and now he fell in ill and taking treatment and he is totally bed ridden and he could not appear before this court for cross examination. Hence prayed to eschew the chief affidavit filed by PW3.

**2. Brief Averments of the Counter filed by the respondent:-**

The respondent submit that the petitioner failed to state the name of the disease affected by the PW3 hence the reasons stated by the petitioner are not correct. The PW3 chief examined without any knowledge about the plaintiffs case while he denied to give false evidence infavour of the petitioner hence the petitioner at present wants to eschew the chief affidavit of PW3 hence prayed to dismiss the petition.

**3. Point for Consideration:-**

Whether the application is liable to be allowed ?

**4. Evidence:-**

On both side no witness is examined and no documents are marked.

5. Both side enquiry heard.

**6. Discussion:-**

On perusing the available records and considering the both side submissions this court delineate its finding based on the following discussions.

**6.1.** The petitioner is the 1<sup>st</sup> plaintiff in the main suit. While the suit posted for appearance of PW3 for cross then the petitioner filed this present petition to eschew the evidence of PW3. In the affidavit the petitioner stated that one Dillibabu as PW3 filed his chief affidavit on their side and now he fell in ill and taking treatment and he is totally bed ridden and he could not appear before this court for cross examination. Hence prayed to eschew the chief affidavit filed by PW3. Per contra the respondent filed counter stating that the petitioner failed to state the name of the disease affected by the PW3 hence the reasons stated by the petitioner are not correct. The PW3 chief examined without any knowledge about the plaintiffs case while he denied to give false evidence infavour of the petitioner hence the petitioner at present wants to eschew the chief affidavit of PW3 hence prayed to dismiss the petition.

**6.2.** On perusing the available records while the suit posted for further plaintiff side evidence on 03.02.2026 the petitioner side produced one Dillibabu and examined him as PW3. Subsequently he appear on 11.02.2026 but the defendant side failed to cross examined the PW3 hence the suit adjourned to 24.02.2026. While the suit posted on 24.02.2026 the PW3 not appeared for cross examination hence at request of petitioner posted on 10.03.2026 for appearance of PW3 but on that day also PW3 not appeared. Hence this court post the suit on 23.03.2026 for appearance of PW3 but on that day the petitioner filed the present petition to eschew the PW3 chief by stating that PW3 is fell in ill and totally bed ridden and he could not appear for cross examination. While the suit filed by the plaintiff for permanent injunction he is duty bound to prove his case by adducing

witnesses and producing documents. On that he produced PW3 but unfortunately the petitioner was not able to produce the PW3 for cross hence prayed for eschew of chief of PW3. The reasons stated by the petitioner are acceptable, the respondent is duty bound to prove his objections but the respondent side failed to prove the same on that there is no ground to disallow the petition. On interest of justice 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 28<sup>th</sup> day of April 2026.

Sd/- K.Karthick Asath,  
**District Munsif,**  
**Gudiyattam.**

**Petitioners side Witnesses and Exhibits :-** Nil

**Respondent side Exhibits and Exhibits :-** Nil

Sd/- K.Karthick Asath,  
**District Munsif,**  
**Gudiyattam.**

*District Munsif, Gudiyatham*