

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

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

Wednesday, this the 12<sup>th</sup> day of November 2025

**I.A. 01/2024**

**in**

**O.S.No. 225/2015**

Govindaraj

.... Petitioner/ 2<sup>nd</sup> Defendant

// Versus //

1. Sambanda Gounder
2. Karunakaran
3. Malliga
4. Velayudham
5. Amarnath
6. Kamaraj
7. Santha
8. Govindan
9. Dakshnamoorthy

.... Respondents/ Plaintiffs

.... Respondent/ 1<sup>st</sup> defendant

This petition came up on 24.10.2025 before me for final hearing in the presence of Thiru.A.L.Sureshbabu, Advocate for Petitioner and Thiru.K.Loganathan, Advocate for the respondents 1 to 8 and Thiru.J.Nandhagopal, Advocate for the 9<sup>th</sup> 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 cross examination 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 declaration and injunction as against him and other defendants and the said case was posted PW1 cross on 21.03.2023. On that day the petitioner was fell in ill and also he could not contact his counsel and in his absent on the day this Hon'ble court has closed his side evidence. The said mistake is neither willful nor wanton and there is no willful default on the part of the petitioner side. The petitioner have good defence in the said case. Hence the petitioner filing this application to recall PW1 for cross examination and it will not cause prejudice to to the respondent. Otherwise the petitioner would put to great hardship and loss.

**2. The averments of the counter filed by the 6<sup>th</sup> respondent:-**

The petitioner failed to state reason for the non examination of plaintiff on the hearing date. The 2<sup>nd</sup> defendant failed to cross examine PW1 after giving sufficient opportunities. The petitioner with intent to prolong the suit filed this petition. The petitioner failed to appear before this court from the date of chief examination of PW1 till the date of filing of this petition. Hence the petition filed with false averments should be dismissed with cost.

2. The 9<sup>th</sup> respondent counsel failed to file counter on 19.06.2024 but endorsed petition may be allowed on cost.

3. Petitioner and R1 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 2<sup>nd</sup> defendant in the suit. The respondents 1 to 8 are plaintiffs in the suit. The 9<sup>th</sup> respondent is the 1<sup>st</sup> defendant in the suit. The plaintiffs filed declaration of title and permanent injunction suit against the defendants. While the suit pending for cross of PW2. The petitioner file this petition on 23.02.2024 to recall the PW1 for cross examination. In the petition the petitioner stated that due to fell in ill he failed to contact his counsel and for his absence his side evidence is closed. Hence prayed to recall PW1 for cross examination.

**6.2.** The respondents/plaintiff filed counter submitted that no acceptable reason is stated in the petition for non cross examination of PW1 on the hearing date. After giving opportunity only cross of PW1 is closed by this court. On perusing the available records, the 6<sup>th</sup> plaintiff examined as PW1 on 13.02.2023, and subsequently PW1 present on 23.02.2023, 07.03.2023 and 21.03.2023 but the petitioner side failed to cross examine PW1, hence his evidence closed on 21.03.2023. There is no specific reason stated in the petition for non cross examine PW1 for four hearings.

**6.3.** It is further submit that PW1 evidence closed on 21.03.2023 but the petitioner filed this petition only on 23.02.2024 nearly after 11 months and after chief examining the PW2. There is no explanation for the delay of 11 months in filing this petition. The suit is pending from the year 2015, the petitioner/2nd defendant filed this petition only with intent to prolong the suit. Any how on considering the nature of suit, 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:-**

a) As a result IA.01/2024 for recall the PW1 for cross examination is allowed on condition to pay cost of Rs.3000/- to be paid to PW1 on his appearance and PW1 should be cross examined on the day when he makes his presence without getting any adjournment, unless his evidence will be closed on the day itself.

b) The petitioner directed to pay cost of Rs.1000/- to the District Legal Service Authority, Vellore on or before 19.11.2025.

c) PW1 is directed to appear for cross examination by the 2<sup>nd</sup> defendant on 19.11.2025 without fail.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 12<sup>th</sup> day of November 2025.

**District Munsif,  
Gudiyattam.**

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

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

**District Munsif,  
Gudiyattam.**