

**In the Court of the Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur**

**Present:-Thiru.K.Jeyakumar, B.L., L.L.M.,
Principal District and Sessions Judge,
Tuesday, the 16th day of December 2025**

**I.A.No.03/2025
in
C.O.S.No.02/2023**

1. M/s.Standard Matches Industries Private Ltd.,
Through it's Director RajaRathinam Pathma

2.Tmt.Rajarathinam Pathma

...Petitioners/

1st and 2nd Defendants

/Vs./

1.M/s.Sree Meenatchi Traders

Through it's Proprietor Mr.Hareesh

... 1st Respondent/Plaintiff

2. Sivagnanagiramani

3. Rajeevmugilan

...2, 3rd Respondents/ 3rd and 4th Defendants

This petition coming before me for final hearing on 14.11.2025 in the presence of Tr.G.Mariappan, Advocate for the petitioners and Tr.G.Velmurugan Advocate for the 1st Respondent, 2nd and 3rd Respondents set exparte in main suit, and upon hearing the arguments of both side and perusing the case records, this Court delivered the following,

ORDER

This petition has been filed by the petitioner under order 18 Rule 3(a) and Section 151 of CPC to examine the witnesses mentioned in the accompanying petition on behalf of 1st and 2nd defendants first, and thereafter to examine the 1st and 2nd defendants as witnesses.

Petition averments in brief:-

2) The petitioner/2nd Defendant is the Director of the 1st defendant company and is well aware of all the facts of this case. The plaintiff has filed the suit seeking recovery of a business due of Rs.33,18,598/- with interest at 24% per annum from the date of suit till realization. On the plaintiff's side, witnesses PW1 to PW3 have been examined and the plaintiff's side evidence was closed on 04.09.2025. The case is now posted for the defendants' side evidence. As the daughter of M/s. Rajarathinam Padma, Director of the 1st defendant company, delivered a child at a hospital in Chennai two weeks ago, the said Director is presently staying in hospital and taking care of her daughter. She is unable to appear in person and depose in the above main suit at this stage. This affidavit is filed seeking permission to examine the witnesses mentioned in the accompanying petition on behalf of defendants 1 and 2 first, and thereafter to examine the defendants as witnesses. Hence, this petition.

Counter averments in brief:-

3) The averments contained in the affidavit filed in support of the present I.A. are false, vexatious, not maintainable in law or on facts, and hence denied in toto except those that are specifically admitted herein. The present application under Order 18 Rule 3-A of CPC is wholly incompetent, as the petition is filed by the 3rd defendant, who is not the proper or legally authorised person to seek permission for later examination under the said provision. As per Order 18 Rule 3-A, only the party who wishes to be examined at a later stage can seek permission of the Court. In the present suit,

the competent party is the 2nd defendant Director / Principal Officer of the 1st defendant company. He alone is required to enter the witness box first and he alone can seek such permission. The 2nd defendant, who is the principal witness of the company, has not filed any affidavit or petition seeking such permission. Therefore, the present IA filed by the 3rd defendant is not maintainable, unauthorised, and liable to be dismissed in limine. It is relevant to submit that in a commercial suit, the first and proper witness of a defendant company is its Director / Authorised Officer, who alone is competent to speak about the transactions, accounts, liability and disputed documents. A subordinate or employee cannot pre-empt or precede the main witness. The present petition is only an attempt to deliberately postpone the examination of the principal witness (2nd defendant) and thereby avoid the legal consequences of admitting or denying the financial liability. This Court may take note of the delay pattern of the defendants during trial. The plaintiff side evidence was fully completed on 04.09.2025. Thereafter, the defendants were granted repeated and liberal opportunities to let in their evidence on 09.09.2025, 23.09.2025, 07.10.2025, 09.10.2025 and 17.10.2025. In spite of such repeated adjournments, the defendants failed to examine any witness, nor did they produce any documents, nor did they make any bona fide attempt to commence their evidence. Only after exhausting all these opportunities, and only to justify their continued default, the present petition has been filed belatedly on 07.10.2025. The timing of the petition clearly establishes mala fides. The conduct of the defendants clearly shows that they have no intention to lead

evidence and that the present I.A. is filed solely to delay the proceedings, tire the plaintiff, and drag the commercial suit indefinitely. As per Section 16 of the Commercial Courts Act, 2015 read with the amended Order XVII CPC and Order XV-A, commercial suits have a strict statutory mandate for speedy trial. Unnecessary interlocutory applications and adjournments are expressly discouraged. The Hon'ble Supreme Court in SCG Contracts India Pvt. Ltd. V. K.S. Chamankar Infrastructure Pvt. Ltd. has held that timelines in commercial disputes are mandatory, and Courts must not permit dilatory tactics. The present I.A. is a classic example of a calculated and intentional attempt to derail the timelines fixed under the Commercial Courts Act, and therefore deserves to be dismissed with exemplary costs. The affidavit filed in support of the I.A. does not disclose any exceptional circumstance, any reason, or any justification as required under Order 18 Rule 3-A for seeking permission for later examination. The absence of reasons is fatal. The petition does not satisfy the statutory requirement for invoking Order 18 Rule 3-A. Hence, on this ground alone, the petition is liable to be rejected. Moreover, no Board Resolution, authorisation, or proof of competency is filed to show that the 3rd defendant is authorised to file such application on behalf of the company or on behalf of the 2nd defendant. The petition is therefore legally defective, procedurally barred, and abuse of process, and ought to be dismissed at the threshold. Therefore, in the above circumstances, this court pleased to dismiss the Present I.A as not maintainable and filed with malafide intention and hold that the petition has been filed only to delay the trial and avoid examination of

the Principal Witness.

- 4) No oral and documentary evidences let in on either side
- 5) Heard both sides.
- 6) The point for consideration in this petition is whether the petition is allowed or not?

Point:-

7) This petition has been filed by the petitioners under Order 18 Rule 3-A and Section 151 of CPC to examine the witnesses mentioned in the accompanying petition on behalf of defendants 1 and 2 first, and thereafter to examine the defendants as witnesses.

Order 18 Rule 3-A of CPC reads as follows:
"Where a party himself wishes to appear as a witness, he shall so appear before any other witness on his behalf has been examined, unless the Court, for reasons to be recorded, permits him to appear as his own witness at a later stage."

8) The petitioners contention is that Petitioner/2nd Defendant is the Director of the 1st defendant company. The 1st Respondent/Plaintiff had filed the suit against the petitioners and 2 others for the relief of recovery of Rs. 33,18,598/- with 24% interest. Now, the plaintiff's side evidence was closed on 04.09.2025 and the case is posted for defendants' side evidence. The petitioners/ 2nd Defendant is unable to depose at present due to family circumstances and give permission is sought to examine the other witnesses accompanying mentioned in the petition witnesses first and the 1st and 2nd defendants thereafter.

9) In contra, the 1st respondent resisted that the present application under Order 18 Rule 3-A CPC is not maintainable if filed by the 3rd defendant, who is not competent or authorised to seek such permission. Only the 2nd defendant, being the Director and principal witness of the 1st defendant company, can apply for later examination. In a commercial suit, the Director is the first and proper witness. The 1st and 2nd defendants have repeatedly delayed the trial and filed this petition with malafide intention without any valid reason or authorisation. Hence, he prays that the application deserves to be dismissed at limine.

10) On perused of this case, it is seen that the present petition is filed under Order 18 Rule 3-A of CPC read with Section 151 of CPC seeking permission to examine the witnesses mentioned in the accompanying petition on behalf of defendants 1 and 2 first, citing family circumstances of the 2nd Defendant/ Director of the 1st Defendant company. The 1st respondent/plaintiff opposed the application as not maintainable and as filed by an unauthorised person to delay the trial. Under Order 18 Rule 3-A of CPC, a party shall ordinarily examine itself first, and examination at a later stage is only an exception, permissible for valid reasons to be recorded and the Court must be satisfied that the party was genuinely unable to appear and depose as the first witness.

11) In the present case, the 2nd petitioner/2nd Defendant stated that she is being the Director of the 1st defendant company, her daughter delivered a child

at a hospital in Chennai and she is presently staying with and taking care of her daughter and so, she is unable to appear in person and depose in the above main suit at this stage. It has shown valid reasons for seeking later examination, thereby satisfying the requirements of Order 18 Rule 3-A CPC. Hence, this Court is of the view that the petitioners/1st and 2nd defendants is entitled to examine the witnesses mentioned with the accompanying petition on behalf of 1st and 2nd defendants first, and thereafter to examine the 1st and 2nd defendants as witnesses, having satisfied the requirements of O.18, R.3-A of CPC. Accordingly, this point is answered.

12) In the result, this petition is allowed. No cost.

Directly dictated to the Steno-Typist and typed by her, then corrected and pronounced by me in open Court on this the 15th day of December 2025.

Principal District and Sessions Judge,
Virudhunagar District at
Srivilliputtur.

List of witnesses and Exhibits on both side:- NIL.

Principal District and Sessions Judge,
Virudhunagar District at
Srivilliputtur.

***Principal District Court
Srivilliputtur
I.A.3/2025
in
C.O.S.No. 02/2023
Fair / Draft - ORDER
16.12.2025.***