

**IN THE COURT OF THE DISTRICT MUNSIF, SULUR**

**Present : Tmt.M.Santhosham., B.Sc., B.L.,**

**District Munsif, Sulur**

Thiruvalluvar year 2056 Visvvasu year, 19<sup>th</sup> day of Month of Aippasi

Wednesday the 5<sup>th</sup> day of November 2025

**I.A.No.7/2025**

**in**

**O.S.No.48/2019**

1. A. Selvaraj **... Petitioner/ 1<sup>st</sup> Defendant**

**/VS/**

1.M. Kalimuthu

2. M. Perumalsamy

3. M. Krishnasamy

4. B. Balamani

5. B. Gopalakrishnan **... 1<sup>st</sup> to 5<sup>th</sup> Respondents/Plaintiffs**

6. A. Thangavel **... 6<sup>th</sup> Respondent/2<sup>nd</sup> Defendant**

This petition is coming on this day for final hearing before me in the presence of Thiru.R.V.Gurunathan, Advocate for the Petitioner/ 1<sup>st</sup> Defendant and Mr.K.Srikumar, Advocate for the 1<sup>st</sup> to 5<sup>th</sup> Respondents/Plaintiffs and the 6<sup>th</sup> Respondent/ 2<sup>nd</sup> Defendant called absent set exparte and upon perusing the records, and this court made the following:

**ORDER**

This petition filed by the petitioners under Section 151 of CPC to reopen OS.No.48/2019 on the side of the petitioner (the 1<sup>st</sup> defendant) enabling to file his detailed Additional written statement and to hear the matter on merits.

**1. The brief averments of the affidavit filed by the petitioners as follows:**

1.1. The petitioner is the 1<sup>st</sup> defendant in the Suit No.48/2019. The respondents herein have filed the above Suit against Petitioner/ 1<sup>st</sup> defendant for the relief of Declaration and Permanent injunction and for other reliefs. The main suit is posted to 21.08.2025 for taking steps to cross examine PW1. Petitioner appeared through his previous counsel on 24.06.2019. At that time Written Statement on Petitioner/ 1<sup>st</sup> Defendant side was not filed by his previous counsel and subsequently on 15.06.2022 this Court has passed exparte order and posted the case for exparte evidence on the plaintiffs' side.

1.2. The Petitioner have filed Order 9 Rule 7 petition through his previous counsel to set aside the exparte order passed against petitioner/ 1<sup>st</sup> defendant along with Written Statement. Further the above said petition was numbered as 1.A.No.3/2022 on 02.08.2022 by this Court and posted for Notice of Hearing and Counter. The respondents have endorsed to allow the above said I.A.No.3/2022 on terms and this Court has allowed the I.A.No.3/2022 on payment of cost of Rs.500/- to be paid to respondents/plaintiffs on or before 25.08.2022 and adjourned the case to 25.08.2022. As per the order of this Court petitioner/ 2<sup>nd</sup> defendant have paid the cost to the respondents/plaintiffs through his previous counsel and I.A.No.3/2022 was allowed and posted for framing of issues.

1.3. The petitioner/ 1<sup>st</sup> defendant met with motor vehicle accident and unable to move without the help of third person. Because of the above said critical situation petitioner/ 1<sup>st</sup> defendant forced to put-forth his written Statement in O.S.No.48/2019 with available documents and details. Got the suit documents only after filing of petitioner/ 1<sup>st</sup> defendant's written statement. It came to petitioner/ 1<sup>st</sup> defendant light that without proper pleading of facts, details and documents related to the Suit petitioner/ 1<sup>st</sup> defendant cannot prove the truth on his side. In the meantime on 19.08.2025 petitioner/ 1<sup>st</sup> defendant have changed his previous counsel and

appointed Mr. R.V.Gurunathan, B.A., M.L., as his present counsel.

1.4. The proposed placing of petitioner/ 1<sup>st</sup> defendant side additional written Statement is very necessarily required to Cross examination of PW1 and also in the above case to prove the version and strengthen the defense of petitioner/ 2<sup>nd</sup> defendant is very necessary and petitioner/ 1<sup>st</sup> defendant filing his additional written statement along with this petition and ready to conduct the case as directed by this Court. Filing of the additional written Statement and suit related documents belated before this Court is neither careless nor wanton. Hence this petition is to be allowed.

**2. The brief averments of Counter statement filed by 1<sup>st</sup> to 5<sup>th</sup> Respondents/Plaintiffs as follows:**

2.1. The averments in additional written statements are false and frivolous. These defendants never mentioned in plaint that the possession and enjoyment was with the defendants at any point of time. The cause of the litigation is at the time of UDR Patta Scheme survey, the 24 Cents of this plaintiffs' land being an adjacent land to these defendants' land, it was mistakenly or wrongly added in the defendants patta. It never means, that the possession was handed over to these defendants and they were in possession and enjoyment of the disputed land.

2.2. The title deeds prove the same and multiple judgments from Honorable Supreme Court have established that a patta is not a 4. a document of title. The Revenue Divisional Officer is the competent authority to conduct enquiry and pass order related to the mistakes done at the time of UDR Scheme. Thus, the plaintiff approached the authorities and all those orders had been produced before these court. There is no flaw from the plaintiffs' side to question the same. This petitioner/ 1<sup>st</sup> defendant filed a suit OS.No.1178/2018 before the 1<sup>st</sup> Additional Sub-ordinate Judge of Coimbatore and the above suit was dismissed on 05.09.2023 for default for not conducting the trail. The above suit was reopened on 19.02.2024,

where as this plaintiffs' advocate endorsed no objection in the above mentioned reopen petition and the same was allowed. Again the above suit OS.No.1178/2018 was dismissed for not taking trail on 26.02.2024.

2.3. But this petitioner/defendant blaming these plaintiffs that, they didn't appear before the 1<sup>st</sup> Additional Sub-ordinate Judge to conduct the case. In this present suit also this petitioner/ 1<sup>st</sup> defendant set-exparte on 15.06.2022 and set-aside application has been filed by this petitioner/ 1<sup>st</sup> defendant. In which this respondents'/plaintiffs' counsel endorsed no objection to allow the application. These plaintiffs' are always ready for fare trail and commencement of the suit. But this petitioner did not come up with fair reason for his non appearance in this present suit for such long period. Where as his previous counsel mentioned in this court on 05.12.2023 that "the bundle was handed over to defendants". Thus, they were again set ex-parte on 05.12.2023.

2.4. The medical records provided by this petitioner shows that, the treatment was taken from 22.10.2024 only. No proof is provided by this petitioner to support their claim of motor vehicle accident, following which this petitioner became sick due to the accident. There is no valid reason for re-opening as compelling. This re-open application and additional written statement has been filed by this petitioner with malafide intention to delay the proceedings and this application is an attempt to fill the gap rather than addressing ambiguities. Hence, the petition is to be dismissed.

3. No Witnesses were examined on either side, and no documents were marked as exhibits.

#### **4. Points for Consideration:-**

Whether the petition under Section 151 of CPC to reopen OS.No.48/2019 to file Additional written statement is to be allowed?

**5. Points :-**

5.1. The petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. The suit documents were carefully examined. The Main suit is filed for declaration and permanent injunction against the defendants. The original suit is currently pending for cross examination of PW.1, during which this petition has been filed.

5.2. In this situation, the petitioner (plaintiff) has submitted that the previous written statement was filed based on the available documents through his earlier counsel. After filing the written statement, the petitioner obtained additional documents, which revealed that the previous version lacked proper grounds to support the case. Therefore, the petitioner now seeks permission to file an additional written statement, which is essential for conducting an effective cross-examination. It is further submitted that if this petition is not allowed, the petitioner would suffer severe hardship and loss. The 1<sup>st</sup> to 5<sup>th</sup> respondents has filed an objection to this petition.

5.3. In the original suit, since the witness cross-examination is still pending, questions cannot be raised in cross-examination regarding matters that are not pleaded in the written statement. However, the defendant has stated that certain documents relevant to the case have now come into their possession, and based on that, the need to file an additional written statement has been emphasized. However, considering the nature of the case and the importance of a fair trial, this Court, in the interest of justice, allows the filing of the additional written statement. Without pleading the petitioner cannot cross examined the witness. Considering this submission and in the interest of justice and to avoid the multiplicity of the proceedings the present petition is allowed.

*In the result, this petition is allowed. No cost.*

Dictated to the Steno-typist and directly typed by her in computer,  
corrected and pronounced by me in open court this the 5<sup>th</sup> day of November 2025

Sd/M.Santhosham

**District Munsif,**

**Sulur.**

List of witnesses and documents on Petitioner side:- - Nil

List of witnesses and documents on Respondents side:- - Nil

Sd/M.Santhosham

**District Munsif,**

**Sulur.**

Draft/ Fair Order

I.A.No.7/2025 in

O.S.No.48/2019

Dated:05.11.2025

DMC, Sulur