

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

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

**District Munsif, Sulur**

Thiruvalluvar year 2056 Visvvasu year, 25<sup>th</sup> day of Month of Aippasi

Tuesday the 11<sup>th</sup> day of November 2025

**I.A.No.25/2025**

**in**

**I.A.No.23/2025**

**in**

**O.S.No.137/2017**

1. D.Selvaraj

**... Petitioner/16th Defendant**

**/VS/**

1. Janaki @ Kannammal

**...Respondent/Plaintiff**

This petition is coming on this day for final hearing before me in the presence of Mr.M.Gopalakrishnan, Advocate for the Petitioner and Selvi.R.Krishnaveni, Advocate for the Respondent and upon perusing the records, and this court made the following:

**ORDER**

This petition filed by the petitioner under order 6 rule 17 and Section 151 of CPC to amend affidavit as detailed in the accompanying petition.

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

1.1. The petitioner is the 16<sup>th</sup> Defendant in OS.No.137/2017. The respondent has filed the suit for partition. Petitioner filed the above IA.No.23/2025 for open the case for cross of PW1. Due to oversight, some errors in date had inadvertently crept in due to typographical error in the affidavit. The amendments

sought for will not alter the cause of action nor does it introduce a new case. Further, the respondents will not in any way prejudice by allowing the said amendment. Further, for proper identification and for the effective adjudication of the dispute, it is just and necessary that those amendments have to be effected. The said amendments will avoid multiplicity of proceedings. Unless, the details as mentioned in the accompanying petition is amended in the plaint. Petitioner will be put to great loss and hardship. Hence this petition is to be allowed.

## **2. The brief averments of Counter statement filed by the Respondent as follows:**

2.1. The petition is false, frivolous, vexatious and not maintainable both under law and on the facts. The suit is presently posted for final arguments. At this advanced stage of the proceedings, there exists no scope, occasion, or necessity for the filing of any further written statement. The petitioner has not demonstrated the existence of any fresh facts, circumstances, or legal grounds which could possibly justify the reception of an additional written statement at this belated stage. Allowing such an application would result in undue delay, prejudice the 1<sup>st</sup> respondent, and amount to an abuse of process of this court.

2.2. The petitioner's application has been filed at an extremely belated stage, namely, when the matter is already posted for final arguments. The petitioner has failed to disclose any fresh facts, circumstances, or documents that could not have been filed at an earlier stage of the proceedings. Moreover, the petitioner has not provided any plausible explanation or justification for the inordinate delay in seeking permission to file an additional written statement. Already the petitioner father had appeared in the above case and knowing the facts of the sale deed executed by his mother on his behalf had not denied at all.

2.3. The Plaintiff being the daughter of the executant Valliammal had

admitted her mothers sale deed and now the petitioner cannot go against it. Hence the additional written statement by the legal heir cannot be accepted at all, that too at the stage of arguments. It is well established principle of law that a party seeking leave of this court to file an additional written statement must satisfy the court that exceptional circumstances exist, or that there are fresh fact or documents which could not have been produced earlier despite due diligence. In the present case, the petitioner has failed to demonstrate that existence of any such exceptional circumstances, frsh facts or documents that could justify the reception of an additional written statement at this advanced stage. It is trite law that, once the matter has reached the stage of final arguments, no fresh written statement is ordinarily permissible unless it is supported by truly exceptional circumstances, which are entirely absent in the present case.

2.4. It is settled position in law that after the completion of evidence, any attempt to reopen the proceedings for the purpose of filing additional pleadings or written statements must be made under the inherent powers of this court under Section 151 CPC. Such powers is to be exercised sparingly and only in exceptional circumstances to prevent miscarriage of justice. In the present case, the petitioner has failed to invoke section 151 CPC or demonstrate any valid ground for the exercise of such inherent jurisdiction. The mere filing of an application at this stage is liable to dismissed in limini. The present petition is highly belated and appears to have been filed with a malafide intention, with the ulterior motive of harassing the contesting the 1<sup>st</sup> respondent. Hence this 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 order 6 rule 17 and Section 151 of CPC to

amend affidavit as detailed in the accompanying petition 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 partition and permanent injunction and now suit is currently pending for plaintiff side argument, during which this petition has been filed.

5.2. The petitioner/ 16<sup>th</sup> defendant stated that, Petitioner filed the above IA.No.23/2025 for recall the PW1 for cross examination. Due to oversight, some errors in date had inadvertently crept in due to typographical error in the affidavit. The respondent/plaintiff objected that, it is settled position in law that after the completion of evidence, any attempt to reopen the proceedings for the purpose of filing additional pleadings or written statements must be made under the inherent powers of this court under Section 151 CPC. Such powers is to be exercised sparingly and only in exceptional circumstances to prevent miscarriage of justice. In the present case, the petitioner has failed to invoke section 151 CPC or demonstrate any valid ground for the exercise of such inherent jurisdiction. The mere filing of an application at this stage is liable to dismissed in limini.

5.3. In this context, the petitioner has filed an application in I.A.No.23/2025 recall the PW.1 for cross examination. This present petition is filed to amend the earlier application. It is stated that there was an error in the affidavit in IA.No.23/2025 and this petition seeks to rectify that error. In this situation, the petition filed as I.A.No.25/2025 seeking an amendment is allowed in the interest of justice. Allowing the amendment in the said petition will not cause any prejudice to the Respondent/Defendant.

***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 11<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 Respondent side:-** - Nil

Sd/M.Santhosham  
**District Munsif,**  
**Sulur.**

Draft/ Fair Order  
I.A.No.25/2025 in  
I.A.No.23/2025 in  
O.S.No.137/2017  
Dated:11.11.2025  
DMC, Sulur