

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

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

District Munsif, Sular

Thiruvalluvar year 2056 Visvavasu year, 21st day of Month of Purattasi

Tuesday the 7th day of October 2025

I.A.No.28/2025

in

O.S.No.334/2017

1. Mandhiriappan
2. Nachimuthu (Died)
3. Thangavelsamy
4. Subbulakshmi
5. Ramesh
6. Selvi

... Petitioners/Plaintiffs

/VS/

1. Subramaniam
2. Dharmaraj
3. Sellamuthu
4. Ranjitham
5. Karuppusamy

...Respondents/Defendants

This petition is coming on this day for final hearing before me in the presence of Selvi.R.Krishnaveni, Advocate for the Petitioners and Mr.E.GopalaKrishnan, Advocate for the 1st and 2nd Respondents and Mr.R.Mahesan Advocate for the 4th and 5th Respondents and the 3rd Respondent exparte in main suit and upon perusing the records, and this court made the following:

ORDER

This petition filed by the petitioners under order 8 rule 9 and Section 151 of CPC to file the enclosed reply statement.

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

1.1. The 3rd Petitioner filing this affidavit for himself and for other petitioners also. 3rd petitioner have filed the above suit for partition and separate possession in respect of the suit properties. 3rd petitioner crave leave to treat the plaint averments as part and parcel of this affidavit. The above case has been posted for filing Plaintiff's reply statement on August 2025. 3rd petitioner was bedridden with a fever from the first week of August 2025 and only recovered on 23.08.2025. Due to 3rd petitioner illness, 3rd petitioner was unable to contact 3rd petitioner's counsel, prepare and file the reply statement on time.

1.2. After 3rd petitioner's recovery, 3rd petitioner learned that the opportunity to file the reply statement has been closed by this court on August 2025. The Non-filing of my reply statement was not intentional or wilful but due to the aforementioned genuine reason. Since the respondents 3 to 5 have filed their counter claim against petitioners it has become very necessary to file my reply statement. Failing to file the reply statement would be seen as an admission of the claims made in the counter claim. Therefore, having no other alternative, it has become very necessary for 3rd petitioner to file the enclosed reply statement. Hence this petition is to be allowed.

2. The brief averments of Counter statement filed by the 1st and 2nd Respondents as follows:

2.1. The present suit and the reply statement are all false, frivolous, vexatious and is an abuse of the process of law and the same is not maintainable both in law and on the facts. In the long cause title the age of the 5th respondent is purposely mentioned as 42 years, whereas the age of the 3rd respondents who is the brother's son of 5th respondent is mentioned as 67 years much older than the 5th respondent. The Petitioner/Plaintiffs are again trying to substitute a new person which is totally illegal and against law. The 3rd petitioner pleads illness, but had not

produced any proof for it. The 3rd petitioner had sworn this affidavit on behalf of other petitioners also, but had not explained any reason for the failure of the other petitioners to file the reply statement.

2.2. The Petitioners and the 3rd to 5th Respondents concluded together and are trying to get unlawful gain. The present reply statement is an attempt to fill up the lack-nous in the plaint, which had already failed in the earlier amendment petition, since it was partly allowed by this court deleting the present contentions in this reply statement. The sole contentions in the reply statement are made only to fill the faults in the plaint and there is no opposition collusion between petitioners and the 3rd to 5th respondents. The plain reading of the reply statement will clearly elicit the above facts. The Petitioner is trying to introduce a new case by filing the above reply statement and if the petition is allowed these respondent will be put to much loss and hardship. 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 order 8 rule 9 and Section 151 of CPC to file the enclosed reply 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 original suit seeking for Partition and other reliefs.

5.2. The petitioners has stated that he suffered from fever in August 2025 and was bedridden, and that he recovered from the illness only on 23.08.2025. Hence, he was unable to file the reply statement, and the matter was closed. It is further stated that if the reply statement is not permitted, the petitioners would face

severe hardship and loss. The respondents has denied these claims.

5.3. However, no medical records have been submitted by the petitioners to prove that his health condition was not good at that time. Nevertheless, the original suit is in the year 2001, hence considering the nature of the case, the said petition is allowed and orders are issued accordingly. In the interest of justice one more opportunity given to petitioners/plaintiffs. Hence, the said petition is allowed with the condition that the petitioner shall pay a cost of Rs.1,000 to the 1st and 2nd Respondents on or before 10.10.2025.

In the result this petition is to be allowed on payment of cost of Rs.1000/- to be paid to the 1st and 2nd Respondents/Defendants on or before 10.10.2025 on failure this petition stands dismissed automatically. For compliance Call on 10.10.2025.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 7th day of October 2025.

Sd/M.Santhosham
District Munsif,
Sulur.

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

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

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order
 I.A.No.28/2025 in
 O.S.No.334/2017
 Dated:07.10.2025
 DMC, Sulur