

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

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

**District Munsif, Sulur**

Thiruvalluvar year 2056 Visvavasu year, 18<sup>th</sup> day of Month of Ipasi

Tuesday the 4<sup>th</sup> day of November 2025

**I.A.No.30/2025**

**in**

**O.S.No.334/2017**

1. Subramaniam

2. Dharmaraj

**... Petitioner/ 1<sup>st</sup> and 2<sup>nd</sup> Defendant**

**/VS/**

1. Mandhiriappan

2.Nachimuthu (Died)

3.Thangavelsamy

4.Subbulakshmi

5.Ramesh

6.Selvi

**... Respondents / Plaintiffs**

7. Sellamuthu

8. Ranjitham

9. Karuppasamy

**... Respondents / 3<sup>rd</sup> to 5<sup>th</sup> Defendants**

This petition is coming on this day for final hearing before me in the presence of Mr.K.GopalaKrishnan, Advocate for the Petitioners /1<sup>st</sup> and 2<sup>nd</sup> Defendants and Selvi.R.Krishnaveni, Advocate for the 1<sup>st</sup> to 6<sup>th</sup> Respondents and Mr.R.Maheasan Advocate for 7<sup>th</sup> to 9<sup>th</sup> Respondents 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 leave to file the enclosed written statement of objection to the counter claim in the above suit.

### **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 above suit. Petitioners had applied for & Certain documents which had been delayed. So Petitioners Could not filed in time. The suit is posted for Trail. 1<sup>st</sup> Petitioner had a severe tooth problem and due to there arose multiple problems due to 1<sup>st</sup> Petitioner age constraint and the 1<sup>st</sup> Petitioner was made to take complete rest at 1<sup>st</sup> Petitioner daughter's residence and hence 1<sup>st</sup> Petitioner couldn't file the Reply statement against the counter claim petition filed by the 3<sup>rd</sup> to 5<sup>th</sup> defendants. The non-filing of the Written statement of objection to the Counter claim in time is neither wanton nor wilful, but due to the above circumstances.

1.2. Counter claim can be raised against the plaintiff only by a defendant. But here the plaintiffs and the Counter claimants had clouded and had filed the above Counter claim against the Co-defendant which is against Law. Hence the filing of Written statement of objection to the Counter claim in the above suit is very essential to enlighten Petitioners case before this court. Hence this petition is to be allowed.

### **2. The brief averments of Counter statement filed by the 3<sup>rd</sup> Respondent and adopted by 1<sup>st</sup>, 4<sup>th</sup> to 6<sup>th</sup> Respondents as follows:**

2.1. The petition is false, frivolous and unsustainable in law and on facts. The petitioners are put to strict proof of the various allegations made in the affidavit that are not expressly admitted or specifically dealt with herein. The present

application filed by the petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants seeking permission to receive the "additional written statement" is wholly misconceived, devoid of merits, and constitutes a clear abuse of the process of law. The present suit for partition as early as in the year 2001. Thereafter, the pleadings were duly completed, and both the plaintiffs and the original defendants adduced their oral and documentary evidence in full. The recording of evidence on both sides was concluded after affording sufficient opportunity to all parties. Consequently, the matter had been posted for final arguments as early as last year, signifying the completion of all procedural stages in the trial. At such a highly belated stage of the proceedings, in the year 2024, the petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants chose to file an application seeking to implead the 3<sup>rd</sup> to 5<sup>th</sup> defendants in the present suit. The said application, though filed after an inordinate lapse of time and after the completion of evidence on both sides, was nevertheless allowed by this Court.

2.2. Subsequent to their impleadment, the newly added 3<sup>rd</sup> to 5<sup>th</sup> defendants proceeded to file a counterclaim setting out fresh averments and claims against the plaintiffs. The plaintiffs, in turn, filed a detailed reply statement to the said counterclaim, and the 1<sup>st</sup> and 2<sup>nd</sup> defendants also filed an additional written statement. Based on these subsequent pleadings, this Court was frame additional issues for determination, specifically limited to the scope of the counterclaim and the corresponding reply statements. Thereafter, the matter was posted for recording of additional evidence only in respect of the newly framed issues arising from the counterclaim.

2.3. The petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants have once again come forward with the present application seeking leave of this Court to file yet another "additional written statement." The proposed pleading contains entirely new facts and inconsistent pleas which were never raised at any earlier stage of the proceedings

and bear no nexus whatsoever to the counterclaim filed by the 3<sup>rd</sup> to 5<sup>th</sup> defendants or to the additional issues framed thereon. This belated attempt is nothing but a clear endeavor to reopen and virtually rewrite their original defence after the lapse of more than two decades of trial.

2.4. The suit has reached the stage of finality, the petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants have habitually resorted to filing one application or another with the sole intention of prolonging and obstructing the culmination of the proceedings. Such repeated and deliberate attempts to reopen concluded stages of the trial clearly demonstrate a pattern of conduct intended to protract the litigation indefinitely and to prevent the suit from reaching its logical conclusion. As per the amended CPC, any kind of additional pleadings after commencement of trial cannot be permitted. Entertaining such a petition at this advanced stage would seriously undermine the sanctity and finality of judicial proceedings.

2.5. It is a well-settled principle of law that leave of the Court to file an additional written statement can be granted only in exceptional circumstances, and only where the party seeking such leave is able to satisfactorily demonstrate that the facts now sought to be introduced were not within their knowledge earlier, or that despite exercising due diligence, such facts could not have been produced at the appropriate stage. The burden of establishing such exceptional circumstances lies squarely upon the applicant. In the present case, the petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants have miserably failed to show any bona fide reason or justification for their omission to place these facts before this Court at an earlier point of time. The present application, therefore, lacks merits and deserves to be rejected outright.

2.6. The permission now sought by the petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants are in clear violation of the settled principles embodied under Order VIII Rule 9 of

the C.P.C. The said provision categorically stipulates that no subsequent pleading, after the filing of the written statement, shall be presented except by the leave of the Court and only upon the applicant showing sufficient cause to the satisfaction of the Court. In the present case, the petitioners have utterly failed to meet this statutory requirement, as they have not disclosed any sufficient cause or justification warranting the exercise of this Court's discretion under the said provision. Accordingly, the application deserves to be rejected as being contrary to both the letter and spirit of Order VIII Rule 9 CPC.

2.7. The petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants duly availed of that opportunity and participated in the proceedings without any protest or reservation. Hence, there exists absolutely no justification or necessity for permitting them now to introduce a fresh set of pleadings under the guise of an additional written statement. Entertaining such a request at this stage would amount to reopening the entire trial and unsettling the proceedings that have already reached the stage of finality. Permitting the proposed pleading at this advanced juncture would vitiate the entire trial process and render nugatory the exhaustive proceedings that have already taken place before this Court. The present petition is highly belated and appears to have been filed with a malafide intention, with the ulterior motive of harassing the plaintiffs. Hence, the petition ought 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 to file the enclosed written statement of objection to the counter claim 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 now suit is currently pending for trial, during which this petition has been filed.

5.2. The petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants stated that, the 1<sup>st</sup> Petitioner had a severe tooth problem and due to there arose multiple problems due to 1<sup>st</sup> Petitioner age constraint and the 1<sup>st</sup> Petitioner was made to take complete rest at 1<sup>st</sup> Petitioner daughter's residence and hence 1<sup>st</sup> Petitioner couldn't file the Reply statement against the counter claim petition filed by the 3<sup>rd</sup> to 5<sup>th</sup> defendants. Counter claim can be raised against the plaintiff only by a defendant. But here the plaintiffs and the Counter claimants had clouded and had filed the above Counter claim against the Co-defendant which is against Law.

5.3. The 1<sup>st</sup> to 6<sup>th</sup> Respondents/plaintiffs objected that, The petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants have once again come forward with the present application seeking leave of this Court to file yet another "additional written statement." The proposed pleading contains entirely new facts and inconsistent pleas which were never raised at any earlier stage of the proceedings and bear no nexus whatsoever to the counterclaim filed by the 3<sup>rd</sup> to 5<sup>th</sup> defendants or to the additional issues framed thereon. This belated attempt is nothing but a clear endeavour to reopen and virtually rewrite their original defence after the lapse of more than two decades of trial. The petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants duly availed of that opportunity and participated in the proceedings without any protest or reservation. Hence, there exists absolutely no justification or necessity for permitting them now to introduce a fresh set of pleadings under the guise of an additional written statement.

5.4. In the original suit, trial commenced on 28.09.2018 and Plaintiff side chief examined on 20.11.2018 and on 19.02.2019 to 22.12.2020 PW.1 cross and on 05.01.2021 PW.1 partly cross and posted for PW.1 cross continuation from 20.01.2021 to 06.12.2021. On 06.12.2021 suit is dismissed for default. On 19.07.2022 suit is restored and posted for PW.1 cross continuation and on 16.11.2022 PW.1 cross closed. On 07.12.2022 PW.1 recalled PW.1 examined in cross and on 19.12.2022 PW.2 examined and PW.2 cross completed on 05.01.2023 and plaintiff side evidence closed on the same day and posted for defendant side evidence. On 05.01.2023 to 12.06.2023 O 16 R 1 IA.7/23 is pending and dismissed on 12.06.2023 and posted for defendant side evidence. On 27.07.2023 defendant side filed memo stating that they preferred revision against order in IA.7/23 and posted for produce stay order copy and on 04.08.2023 defendant side not filed CRP stay order copy. On 14.08.2023 the 1<sup>st</sup> and 2<sup>nd</sup> defendants has not filed any CRP number and stay order from Hon'ble High Court of Madras against the order in IA.7/23 which is dismissed on merits on 12.06.2023 and the 1<sup>st</sup> and 2<sup>nd</sup> defendants side evidence closed and the 3<sup>rd</sup> defendant called absent set exparte and posted for both side arguments.

5.5. On 02.09.2023 IA.12/2023 is allowed reopened the defendant side evidence and stay CRP.No.3130/2023 pending before Hon'ble High Court of Madras. On 27.09.2023 DW.1 chief examined and on 16.10.2023 chief examination closed. On 02.11.2023 O 8 R 1A(3) petition filed and allowed on 23.11.2023 and DW.1 recalled. On 27.11.2023 stating that the 2<sup>nd</sup> plaintiff died and after steps for 2<sup>nd</sup> plaintiff suit is amended and on 22.01.2024 DW.1 present documents marked and posted for cross of DW.1 and DW.1 cross completed on 07.02.2024. Several IA's are filed and defendants filed their written statement and counter claim of 3<sup>rd</sup> to 5<sup>th</sup> defendants filed on 02.06.2025. The 1<sup>st</sup> defendant filed additional written statement on 06.06.2025 and additional issues framed on 14.10.2025 and posted for trial on 16.10.2025. On 25.10.2025 the 1<sup>st</sup> and 2<sup>nd</sup> defendants filed petition u/o 8 R9 of CPC

filed along with written statement of objection to the counter claim petition. Hence, the petitioners/ 1<sup>st</sup> and 2<sup>nd</sup> defendants filed their written statement of objections to the counter claim. Without pleadings the defendant cannot cross examined the plaintiff witness. The original suit is for partition filed in the year 2001. Hence, considering the year and nature of the suit and avoid the multiplicity of the proceedings. In the interest of justice this 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 4<sup>th</sup> day of November 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.30/2025 in  
 O.S.No.334/2017  
 Dated:04.11.2025  
 DMC, Sulur