

**IN THE COURT OF JUDGE, COMMERCIAL COURT (SENIOR CIVIL JUDGE  
CADRE), COIMBATORE**

**PRESENT: THIRU.C.B.VEDAGIRI, B.PHARM, MS-IT (AUS)., L.L.M., Judge  
Commercial Court, (Senior Civil Judge Cadre)  
Coimbatore.**

Dated this the 10<sup>th</sup> Day of April 2026, Friday

***IA. No. 1 of 2025***

***in***

***C.OS No.807 of 2024***

***(CNR.No.TNCB23-001200-2024)***

Mr.K.Velappan,

...Petitioner/Defendant

***//Vs//***

Mrs. Priyadharshini,  
Sole Proprietor of  
M/s. Agaram Food and Grains Impex

... Respondent/Plaintiff

This Petition coming on this day for final hearing before me in the presence of Thiru.P.S.Aqib Sohail, Advocate for the Petitioner/Defendant and Thiru.R.Prasanth, Advocate for the Respondent/Plaintiff. Upon hearing the counsels and on perusal of records, having stood over till this day for consideration, this Court passed the following:-

## **ORDER**

The Petition has been filed by the Petitioner/Defendant under Order VIII Rule 9 of CPC to file the additional written statement filed by the petitioner/defendant.

### **1.The sum and substance of the Petition:**

The Petitioner/Defendant has stated that the petitioner was the Defendant in the above suit and as such the petitioner was well acquainted with the facts of the case and competent to swear to this affidavit. The petitioner stated that the petitioner had earlier filed a Written Statement in the above suit denying the false and baseless claims raised by the Plaintiff. Subsequently, the petitioner have come to know about certain vital facts and developments which were not within the petitioner knowledge or awareness at the time of filing the Written Statement. The petitioner further stated that the Plaintiff has made contradictory and inconsistent statements in the legal notice dated 24/11/2023 and in the plaint filed before this Honourable Court. In the legal notice, the Plaintiff has mentioned one figure regarding the alleged transaction amount, whereas in the plaint a completely different and inflated figure has been claimed without any proper justification or supporting documents. The petitioner also stated that the Plaintiff has deliberately suppressed the fact that the petitioner had issued a detailed Reply Notice dated 07/12/2023, completely denying the allegations and setting out the true facts. Such suppression of material facts and contradictions have now come to light after filing of his Written Statement, and he was compelled to bring the same to the attention of this Honourable Court through an Additional Written Statement. The petitioner further submit that the petitioner had no business dealings with the Plaintiff at any point in time, and all his transactions were exclusively with one Mr. Selvaraj Prabhu, with whom all accounts were fully settled. The present suit has been filed with ulterior motives and to unlawfully enrich the Plaintiff by making false claims. The petitioner submit that it is just and necessary in the interest of justice that the petitioner be permitted to file the Additional Written

Statement to place on record the full facts and true position of the case, which are crucial for the proper adjudication of the dispute between the parties. The petitioner hereby affirm that the filing of the Additional Written Statement is bonafide and not intended to cause any delay or prejudice to the Plaintiff in any manner. It is therefore respectfully pray that this Honourable Court may be pleased to grant the petitioner leave to file the Additional Written Statement in the above suit.

**2.The crux of the Counter filed by Respondent/Plaintiff:**

The Respondent/Plaintiff submits that the respondent was the Respondent/Plaintiff in the above-captioned interlocutory application. The respondent was well acquainted with the facts of the case and the respondent competent to swear to this Affidavit. The respondent has read the Petitioner/Defendant's Application for Leave to File an Additional Written Statement. The respondent submits that the statements contained therein are false, vexatious, and liable to be dismissed. Further, the respondent denies the entire allegations made in the petition and affidavit, except those specifically admitted herein, and the Petitioner/Defendant is put to strict proof of the same. The petitioner state that the contents of Paragraphs 1 to 8 of the affidavit and the facts in the petition are false, baseless, and fabricated, and are therefore denied as false and incorrect. The petitioner submits that the Petitioner/Defendant had ample opportunity to present all facts and documents when the initial Written Statement was filed. The present application, dated 16/07/2025, filed at this advanced stage of the proceedings, is a clear attempt to delay the trial and harass me, the Plaintiff. The respondent submit that the Petitioner/Defendant claims to have "come to know about certain vital facts and developments" after filing the original Written Statement. However, careful perusal of the so-called "new facts" reveals that they are facts already within the Petitioner/Defendant's knowledge or were readily ascertainable at the time of filing the initial defense. The respondent stated that the Petitioner/Defendant refers to a legal notice dated 24/11/2023. This document and its contents were in the Petitioner/Defendant's possession prior to the institution of the

suit, and certainly before filing the initial Written Statement. Any alleged contradiction between the notice and the plaint should have been raised immediately. The respondent submits that the Petitioner/Defendant claims I, the Respondent/Plaintiff, "suppressed" the fact that the Petitioner/Defendant issued a Reply Notice dated 07/12/2023. The issuance of a notice is an act of the Defendant himself. It is preposterous to suggest that the Defendant was unaware of a document he himself created and sent. The respondent submit that the Petitioner/Defendant's contention that the present suit "has been filed with ulterior motives and to unlawfully enrich the Respondent/Plaintiff by making false claims" is a bald allegation and an abuse of the court process, made only to justify a malafide application for delay. The respondent/Plaintiff, have clearly demonstrated the outstanding balance of Rs. 3,47,200/- against goods supplied, as evidenced by the running account details (Plaintiff Doc. No. 3, 4 & 5). The respondent submit that the filing of this Additional Written Statement at this stage will cause grave prejudice to plaintiff, the Respondent/Plaintiff, necessitating further amendments, delays in framing issues, and prolonged proceedings. The application is not bona fide and is clearly intended to cause delays, contrary to the Defendant's own averment. The Respondent/Plaintiff, crave to file an additional counter statement when necessary and proper. Therefore the respondent/plaintiff humbly prayed that this Hon'ble Court may be graciously pleased to dismiss the captioned interlocutory application with costs.

**3. The sum and substance of the additional written statement of the defendant:**

The plaintiff has stated in his legal notice dated 24.11.2023 that the total transaction value is Rs.5,97,200/- and that out of the said amount, Rs.2,50,000/- has been paid by the defendant and the balance amount is Rs.3,47,000/- to be paid by the defendant to the plaintiff. The defendant has issued a reply notice dated 07.12.2023 by stating that total amount of Rs.5,00,000/- has been paid by the defendant and there exist no liability.

The plaintiff in para 3 of the plaint has stated that the total transaction amount is Rs.8,47,200/- and that the defendant has paid Rs.5,00,000/- on dates 23.12.2020, 17.10.2021 and 18.10.2021 and that there exist an outstanding amount of Rs.3,47,200/- without any justiciable reason and the very claim is inflated, fabricated and false.

There exist no privity of contract between the defendant and one Priyadarshini and that he had business dealings only with one Selvaraj Prabhu and that all the liabilities and financial dealings with the said Selvaraj Prabhu has been completed and settle and that there exist no outstanding amount to be paid by the defendant to the plaintiff and that there exist no cause of action for the present suit.

4. Heard both sides. Perused the record.

**5. Point of determination:**

The point for consideration is that whether the present petition by the petitioner/ defendant to file the additional written statement is to be allowed or not?

6. It is the case of the petitioner that the respondent / plaintiff has filed the present suit for recovery of money against the petitioner / defendant. The petitioner had earlier filed a Written Statement in the above suit denying the false and baseless claim.

7. The petitioner counsel urged that subsequent to the filing of the written statement, the petitioner have come to know about certain vital facts and developments which were not within the petitioner knowledge or awareness at the time of filing the Written Statement.

8. The petitioner counsel contended that the respondent/plaintiff has made contradictory and inconsistent statements in the legal notice dated 24.11.2023 and in the plaint. The respondent / plaintiff has stated in his legal notice dated 24.11.2023 that the total transaction value is Rs.5,97,200/- and that out of the said amount, Rs.2,50,000/- has been paid by the petitioner / defendant to the respondent / plaintiff and the balance amount is Rs.3,47,000/- to be paid by the petitioner / defendant to the

respondent / plaintiff. The petitioner / defendant has issued a reply notice dated 07.12.2023 by stating that total amount of Rs.5,00,000/- has been paid by the defendant and there exist no liability, which the respondent has suppressed before this court and hence this petition to receive additional written statement to throw light on the case on hand.

9. The petitioner counsel further contended that there was no new cause of action created and new facts being pleaded and prayed to allow the present petition to receive the additional written statement of the petitioner / defendant.

10. **Per contra**, the respondent / plaintiff counsel contended that the present petition is false, frivolous, baseless, vexatious and unsustainable in law and on facts and that the petitioner have approached this Hon'ble Court without clean hands.

11. The Respondent/Plaintiff counsel urged that the necessity of filing Additional Written Statement under Order VIII Rule 9 CPC doesn't arise and the present petition filed on 16.07.2025 in the advance stage is a clear attempt to delay the trial.

12. The respondent counsel urged that the claim of the petitioner that he comes to know certain vital facts and developments is false and the alleged facts are already within the knowledge of the petitioner and could have raised in the written statement itself.

13. The respondent counsel urged that the Petitioner/Defendant refers to a legal notice dated 24.11.2023 in the additional written statement which was in the Petitioner/Defendant's possession prior to the institution of the suit, and certainly before filing the initial Written Statement. Any alleged contradiction between the notice and the plaint should have been raised immediately.

14. The respondent counsel urged that there is no suppression of facts before this court and that the Petitioner/Defendant's contention that the present suit "has been filed with ulterior motives and to unlawfully enrich the Respondent/Plaintiff by

making false claims" is a bald allegation and an abuse of the court process, made only to justify a malafide application for delay.

15. The learned counsel for the respondent/Plaintiff urged that there exist an outstanding balance of Rs.3,47,200/- against goods supplied and the same is reflected in the account statement.

16. The respondent counsel finally argued that the filing of this Additional Written Statement at this stage will cause grave prejudice to respondent / plaintiff which would cause further delay in framing issues, and trial and would prolong the proceedings. It was also argued that the present application is not bona fide and is clearly intended to cause delays, contrary to the Defendant's own stand and prayed for dismissal.

17. This court embarked upon the nature and scope of the Order 8 Rule 9 CPC and it goes without saying that Rule 9 of Order 8 declares that no pleading subsequent to the written statement by a defendant (other than by way of set-off or counter claim) shall be allowed except with the leave of the court and upon such terms as the court thinks fit. It is also incorporated in the provision that "but the court may at any time require a written statement or additional written statement from any of the parties and fix a time of not more than thirty days for presenting the same"

18. This court relies on the decision in *Harish Chandra Vs Triloki Singh AIR 1957 SC 444* wherein it has been held that "There is no provision in the code under which a party may claim to present additional pleading as of right"

19. This court also rely on the ruling of the Hon'ble Apex court in *Balraj Taneja Vs Sunil Madan AIR 1999 SC 3381* wherein it has been stated that "The rule enables the court to exercise the discretion to permit additional or subsequent pleading "upon such terms as it thinks fit".

20. This court feels that it would be apt to extract the portion of the decision of the Hon'ble Madras High Court in *Veerasekhara Varamarayar vs. Amirthavalliammal & Ors.* Wherein it was held that "where the defendant brings the new facts in the written

statement, the plaintiff must get a chance to file a rejoinder challenging the truth and binding nature of the allegations/averments made in the written statement. But law does not compel the plaintiff to file a replication/rejoinder and the plaintiff cannot be deemed to have admitted the same simply because he had not filed the rejoinder.”

21. It is from the record that the petitioner / defendant has entered appearance through advocate on 09.04.2025 and has filed the written statement along with statement of truth on 18.06.2025. It is also from the record that the petitioner has filed the present petition on 16.07.2025 to receive the additional written statement and that the present suit is pending before this court during the stage of filing of statement of admission and denial of documents by the petitioner / defendant.

22. This court perused the additional written statement filed by the present advocate of the defendant. In considering the contents of earlier written statement of defendants and the arguments advanced by the learned counsels for petitioner/plaintiff and respondent/defendant and the various decisions relied and cited *supra*, this court feels that:

1. The Nature of the suit remains the same and the additional written statement is not inconsistent with the earlier pleadings.

2. There is no contradictory stand taken by the petitioner/defendant in the additional written statement. The petitioner/defendant has additionally stated that the the respondent / plaintiff in his legal notice dated 24.11.2023 has stated that the total transaction value is Rs.5,97,200/- and that out of the said amount, Rs.2,50,000/- has been paid by the petitioner / defendant to the respondent / plaintiff and the balance amount is Rs.3,47,000/- to be paid by the petitioner / defendant to the respondent / plaintiff and that this petitioner / defendant has issued a reply notice dated 07.12.2023 by stating that total amount of Rs.5,00,000/- has been paid by the defendant and there exist no liability, in addition to the written statement already filed.

3. Though there could not be a very reason for filing additional written statement pleading regarding the contents of the legal notice, plaint and the reply

notice of the petitioner, the suit being based on documents, all the rights and contentions of the both the parties are preserved for trial and any view expressed in this order will neither impede nor serve as an impetus in the main suit. Thus the views expressed in this order are only for the limited purpose of deciding the present application/petition. The parties are at liberty to adduce oral and documentary evidence to substantiate their claims and could aid in eliciting the truth before this court.

4. As the additional pleadings are not inconsistent or destructive to the earlier written statement and as the petitioner/defendant has not disown his earlier plea and did not took a contradictory or inconsistent stand to his earlier pleadings and as the additional pleadings has not introduced a new case, this court feels that it is just and necessary to permit the petitioners to file additional written statement in the suit for effective adjudication.

23. This court is also conscious of the object and purpose of the Commercial Courts Act, 2015 which aims for speedy disposal of the suits and to act in stipulated timelines.

24. Considering the nature and stage of the suit, delay in filing this petition, this court thought it fit to impose a cost of Rs.3,000/- to be paid by this Petitioner/ Defendant to the Respondent / Plaintiff on or before 28.04.2026.

***In the result, the petition would be allowed upon payment of cost of Rs.3,000/- to be paid by this Petitioner/ Defendant to the Respondent / Plaintiff on or before 28.04.2026.***

The Order is directly typed in computer by Typist, corrected and pronounced by me in this Open Court on this 10<sup>th</sup> Day of April, 2026.

Judge,  
Commercial Court,  
(Senior Civil Judge Cadre),  
Coimbatore.

**List of Documents:-**

List of Documents the side of the Petitioners: Nil

List of Documents the side of the Respondents: Nil

Judge,  
Commercial Court,  
(Senior Civil Judge Cadre),  
Coimbatore.

*Fair Order.*  
*IA.No. 1 of 2025.*  
*Cos No. 807 of 2024.*  
*Date: 10.04.2026.*