

**In the court of the Principal District Judge, Cuddalore District,
Cuddalore**

**Present: Tmt.G. Subathira Devi, M.L.,
Principal District Judge, Cuddalore.**

Wednesday, the 30th day of April, 2025

I.A.No.955/2024 in O.S.No.29/2022

1. Selvi @ Arulselvi
2. Kanagayal
3. Natarajan
4. Rajkumar
5. Ponnammal

.. Petitioners/Defendants

/Versus/

1. Kala
2. Prasanth

.. Respondents/Plaintiffs

This petition came on 24.04.2025 before me for final hearing in the presence of Thiru.R.Shankar, Advocate for the Petitioners and of Thiru.R.Thirumurugan, Advocate for the Respondents and upon hearing both sides and upon perusing the case records and having stood over for consideration till this day, this Court is passed the following:

ORDER

This petition is filed by the Petitioners/Defendants Under Order-8, Rule 9 and Sec.151 of CPC for seeking to permit the petitioner to file additional written statement in the above Suit in O.S.No.29/2022.

2. The petition averments are as follows:

The petitioner is the 1st petitioner herein and 4th defendant in the above suit and now she looking after the case on behalf of other petitioners also. The petitioners have filed their written statement and contesting the suit. The 1st plaintiff in the suit along with her mother Thayalnayagi have entered in to a

registered partition deed with their father Sadaiya Padaiyatchi on 22.03.1993 with regard to suit properties suit A and B schedule Properties and in the partition deed A schedule property was allotted to Plaintiff and her mother Thayalnayagi and the said Document was registered before Vadalur Sub D., No 367/1993. Now the plaintiffs have come forward with a prayer to declare the partition deed dated 22.03.1993 is null and void and the 1st plaintiff is being a party to the partition deed and the plaintiffs have to pay court fee to the market value of suit property but the plaintiffs have valued only a sum of Rs.5000 and paid of Rs.150/-. Being the party to the partition deed the plaintiffs have to pay court fee to the suit property to the market value and not Rs.150/- paid by the plaintiffs and now only they came to know the plaintiffs have paid only Rs.150/- to declare the Document No.367/1993 as null and void. Hence, the petitioner was advised to file additional written statement in the above case and the only aspect the petitioner was omitted in her written statement was that the plaintiffs have not valued the suit properly for the purpose of court fee and jurisdiction and hence it may be taken as preliminary issue and proceed further and hence give chance to the petitioner to file the additional written statement, if not they will be put to irreparable loss and hardship. Hence, the petitioner seeks to permit the petitioner to file additional written statement in the above suit.

3. The counter averments are as follows:

The petition under Order 8, Rule 9 filed by the Petitioners/defendants. At this stage is not maintainable, unjust, untenable and liable to be dismissed. The case commenced for trial and plaintiff filed his side chief affidavit and document were marked as Exhibits and posted for cross of PW1. Filing such kind of petition at this stage is against the procedure of law, and only to drag on the case and also protract the proceedings. The petition is motivated and to harass these respondents. The petitioners waited till this time and knowing all the stages of case. Now only

come forward with this application for additional written statement is clearly shows the lethargic attitude of these petitioners/defendants. Hence, the petition is to be dismissed with exemplary costs.

4. No oral or documentary evidence adduced on the either side.

5. The point for consideration:

1. Whether the petition is to be allowed or not?

Point -1 :

6. This petition is filed by the Petitioners/Defendants Under Order-8, Rule 9 and Sec.151 of CPC for seeking to permit the petitioner to file additional written statement in the above Suit in O.S.No.29/2022.

7. Heard both sides. Perused the case records.

8. On perusal of the case records and notes paper it is seen that the Respondents herein are the plaintiffs in the above suit and the petitioners herein are the defendants in the above suit. The Respondents/Plaintiffs have filed the above suit for passing a preliminary decree for partition and separate possession of 1st plaintiff's 1/3 share in the suit A schedule properties; and declaring that the partition deeds dated 22.03.1993 vide Doc.No. 367/1993 and 13.10.2016 vide Doc.No.2888/2016 are null and void; giving leave to the plaintiff to apply for final decree for division by metes and bounds with cost of the suit payable by the defendants and such other reliefs. When the above said suit was posted for Cross of PW1, the petitioners/defendants filed this petition to permit the petitioner to file additional written statement in the above Suit and reasons stated by the petitioners that the plaintiffs have to be paid court fee to the marked value of the suit property but the plaintiffs paid only a sum of Rs.5000/-. Further the plaintiffs paid only Rs.150/- to declare the Document No.367/1993 is null and void. These aspects have only now become known to the petitioners. Hence it may taken as

preliminary issue and further proceedings may be ordered after payment of necessary court fee by the plaintiffs. The respondents/plaintiffs have denied the allegations made by the petitioners/defendants and objected that the petition is motivated and to harass these respondents. Further, the petitioners/defendants filed the additional written statement along with this petition. Considering the both side rival submissions and considering the above said reasons and facts and circumstances of the case and in the interest of justice, this court decides that the petitioners may be given an opportunity to establish their case and to proper adjudication. Under these circumstance, this court feels that the petition is to be allowed. Thus this point is answered accordingly.

9. In the result, this petition is allowed. No costs.

Dictated to the steno typist and directly typed by her, corrected and pronounced by me in open Court, this the 30th day of April, 2025.

Principal District Judge,
Cuddalore.

Encl:

Both side Witnesses and Exhibits: NIL

Prl.D.J.
Cuddalore.