

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CUDDALORE

Present: Selvi.B.Phebe, B.A.,LLB.,

Additional District Munsif, Cuddalore

Monday, the 04th day of August – 2025

I.A.No.111/2025 in O.S.No.140/2019

1. G.Anjalakshi

2. R.Gopal

.....Petitioners/Defendants

-Vs-

N.Sulochana ammal

.....Respondent/Defendant

Counsels on Record:

For Petitioner : Mr.V.Loganathan

For Respondents : M/s.M.B.Associates

This petition came before this Court in the presence of counsels and upon perusal of records and having stood over for consideration till this day, this court delivers the following:

ORDER

This is an application taken out by Petitioner under Order 8 Rule 9 of CPC to receive the additional written statement.

2. Gist of the Affidavit filed by the Petitioner:-

(i) The 2nd petitioner is the 2nd defendant in the suit. The extent of East-

West 8 feet and North South 75 feet was purchased in the name of 1st petitioner by means of the registered sale deed dated 15.02.1989 from Jayabalan. Already an extent of East West 16½ feet North South 75 feet was gifted in favour of 1st petitioner by her mother by means of the settlement deed dated 24.08.1983. So, the 1st petitioner became entitled to the extent of East West 24½ feet.

(ii) Thereafter, the 1st petitioner executed a sale deed dated 27.04.1989 in favour of respondent in respect of East West 4 feet North South 75 feet. But in the written statement filed by them and they have omitted to mention about the sale deed dated 15.02.1989 by inadvertence. It is purely an omission. Now by way of additional written statement we put forth the detail and some facts connected with the construction. The other side will not be put to any prejudice by receiving the additional written statement. Hence, the petition.

3. Gist of Counter filed by the Respondents:

(i) This petition for receiving second additional written statement is barred by law since, with the same averments already first additional written statement was filed. This second additional written statement is nothing but an attempt to correct some corrections crept in the first additional written statement. The corrections cannot be carried out by way of filing another additional written statement.

(ii) Under Order VIII Rule 9 only subsequent events after filing of the written statement or if there is any set off or counter claim, it can be pleaded by way

of additional written statement with the permission of the Court. Here, there is no such set off or counter claim or any subsequent event happened to plead by way of additional written statement. It is only an attempt to drag on the proceedings endlessly to harass this respondent.

(iii) It is settled law that the additional written statement should not set up a new case or state facts inconsistent with original written statement. Here, petitioner is trying to set up a new case by stating that it is an omission. The case set up in the first and second additional written statement is inconsistent with the original written statement filed by the petitioner. Hence sought to dismiss.

4. The point for consideration is whether the petition filed by the petitioners under Order 8 Rule 9 of CPC is to be allowed or not?

5. No witnesses were examined nor any documents were marked on either side.

6. **The learned counsel for the petitioner reiterated the averments in the affidavit and argued that,** he has omitted to mention the sale deed dated 15.02.1989 in the written statement. The additional written statement would not prejudice the respondents in anyway. Hence, sought to allow the petition. **The learned counsel for the respondent reiterated the counter averments and argued that,** the petition for receiving the 2nd additional written statement is barred by law as the 1st additional written statement is also filed the same averments. The 2nd additional written statement is an attempt to correct some corrections that has been crept in the

1st additional written statement which is impermissible u/O. 8 R.9 of CPC. Neither any set off or Counter claim has been pleaded nor any subsequent event has happened to file the additional written statement. The parties cannot be allowed to correct the errors in the written statement or fill the lacuna by filing written statement.

Heard both sides. Perused the records.

8. Analysis:-

(i) The petitioner has filed this petition to receive the reply statement/replication under O.8 R. 9 of CPC which permits the parties to file subsequent pleadings with the leave of the court. At the outset, it would be apt to refer to the Judgment of the Hon'ble Supreme Court in the case of ***Olympic Industries v Mulla Hussainy Bhail Mulla in Civil Appeal No. 4148-4149 of 2009 (SC)*** which has held as follows:

- 1. Mere delay not sufficient to refuse to allow amendment of pleadings or filing additional counter statements.*
- 2. Even by filing an amendment or additional counter statement, it is open to the appeallant to add a new ground of defence or substituting or altering the defence or even taking inconsistent pleas in the counter statement as long as the pleadings do not result in causing grave injustice and irretrievable prejudice to the plaintiff or displacing him completely.*

3. *It is well settled that the courts should be more generous in allowing the amendment of counter statements of defendant then in case of the plaintiff. has held that even an inconsistent pleas in the additional written statement.*

(ii) Having the above laid propositions in mind, the plaint, written statement and additional written statements were perused. In the case on hand, though 2 paras in the additional written statement are same as that of the 1st additional written statement, the later 2 paras explain the circumstance at which the sale deed came into existence. This court is of the view that the respondents would not be prejudiced in allowing the same.

In the result this petition is allowed. No order as to costs.

Dictated to Steno Typist, typed and printed out by her and corrected and pronounced by me in open court, on this day, the 04th of day of August 2025.

Additional District Munsif,
Cuddalore.

List of Witnesses and Documents on both sides:- -NiL-

Additional District Munsif,
Cuddalore.

ADM Court, Cuddalore.
Fair Order
I.A.No.111/2025 in
O.S.No.140/2019
Date: 04.08.2025
