

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,
DINDIGUL.

PRESENT : **THIRU. A.K. MEHBUB ALI KHAN, B.LM., LL.M.,**
PG.D.PM/IR.,
ADDITIONAL DISTRICT JUDGE, DINDIGUL.

Monday, the 28th Day of October 2024

I.A. No.7/2024

-in-

O.S. No.44/2017

S. Sujatha *through her*

Power Agent Mr.Subramaniam

... Petitioner / Plaintiff

1. K.P.R.S.J. Premasekaran
2. K.P.R.S.J. Jeyabaskaran
3. S. Jeeva Rekha
4. N. Latha Rajan
5. J. Sarojini Ammal
6. Eswaramoorthi
7. Durairaj
8. Manoharan
9. K.N. Thangavelan
10. K. Palanichamy
11. G. Ganesh
12. R. Venkatesh
13. Muthukumar
14. K. Krishnasamy
15. Balasubramaniam

... Respondents / Defendants

This petition came on 03.10.2024 before this Court for final hearing in
the presence of Tvl. P. Jeganathan, J.P.Arjun, Advocates for the Petitioner,

Tvl. A.Kalyanasundaram, S.Mohammedsulaiman, Advocates for the Respondents 1, 2 and 5, Tvl. R. Raghupathi, B. Sagunthala, J.Subasankar, S. Manikandan, D. Gayathri, S. Karthi, M. Siranjeev, Advocates for the Respondents 6 to 8, Respondents 3, 4, 9, 10 to 15 are called absent and set exparte in main suit, and on heard their arguments and on perusal of records, this Court delivers the following :

ORDER

Petition filed by the Petitioner / Plaintiff Under Order 8, Rule 9 of Civil Procedure Code seeking orders to receive reply statement.

2. **The contention of the petitioners in brief :**

The petitioner is the Power Agent of the plaintiff and since all the original documents were in possession of the defendants, the plaintiff was able to collect them and file a reply statement only now. Unless, the petition is allowed, the plaintiff would be put to irreparable loss and hardships. Hence, the petitioner / plaintiff prays to allow the application and to receive the reply statement filed herewith.

3. **The contentions of the respondents 1 and 2 in brief:**

The petition is filed belatedly after 7 years without any reason for such delay. The reason given for not filing reply statement is false. The plaintiff

dragged on the suit and the court insisted for examination of the witnesses and hence the plaintiff has examined PW1. The defendants have not made any counter claim in the written statement and hence the plaintiff cannot file reply statement in Order 8 Rule 9 of CPC as held by the Hon'ble Madras High Court. The petition now filed after a period of 7 years and after commencement of trial is not bonafide and if permitted the defendants have to file additional reply statement which is unknown to civil procedure. The reply statement now filed would cause serious prejudice and severe hardships to the defendants and it would affect their rights. Hence, the petition to receive reply statement is not maintainable and has to be dismissed.

4. **The contentions of the respondents 6 to 8 in brief:**

The petition is filed after 7 years and is not maintainable. Though, the petitioner has given a reason for not filing the original documents as that they were with the defendants, she has not filed any original documents along with this petition, but only revenue records and computer printouts. The respondents have mentioned in the written statement about their sale deeds and partition deeds, but without raising any objection for the past 7 years, the petitioner has filed this petition now with an intention to drag on the proceedings. Further, the petition is without any valid reasons and is not maintainable and has to be dismissed.

5. The point for determination in this petition is “ **Whether the petition be allowed ?**”
6. No oral or documentary evidence was let in by either party.
7. Heard the arguments on both sides.

Answer to Point No.1

8. The learned counsel for the petitioner contended that since the defendants have raised some new facts in the written statement, and have referred to certain documents, the petitioner has to file a reply statement touching upon those aspects. So he would pray to allow the application.

9. Per contra, the learned counsel for the defendants contended that the Code of Civil Procedure does not contemplate or permit any party to file reply statement or additional written statement after commencement of trial. He would further argue that since, the defendants have not made any counter claim or pleaded set off in their written statement, the plaintiff cannot file any reply statement under Order 8 Rule 9 of CPC. He relied upon the decision of the Hon’ble Madras High Court in “*G.Dhavamani Vs. Balasundari and others*”¹. In the said decision the Hon’ble Madras High Court has held as under;

¹ 2023 (2) MWN Civil 552.

“Once the Complaint was taken on file and the defendants in the suit filed their written statement, thereafter, there cannot be any subsequent pleadings to the Written Statement filed by the defendants other than by way of set off or counter-claim ”

It has further held categorically that,

“The Code of Civil Procedure does not contemplate or permit any party to file reply statement or additional written statement, after commencement of trial or at the final end of the suit. If such course is permitted, it will pave way for unnecessary complications in deciding the case and the parties would make an attempt to develop their case at each stage by filing additional written statement or reply statements as the case may be”

10. In this case, the plaintiff has not given any valid reason for receiving the reply statement after commencement of trial and after a lapse of 7 years. The defendants have also not filed their written statement pleading counter claim or set off and therefore, the plaintiff cannot file any reply statement under Order 8 Rule 9 of CPC as held by the Hon'ble Madras High Court in the said judgment referred supra. It is pertinent to note that if reply statement is received it would cause unnecessary prejudice to the other party and the parties to the suit cannot be permitted to develop their ground or point in such a manner at stage by stage. Therefore, this Court is of the considered opinion that the petition to receive the reply statement is not maintainable and the same deserves to be dismissed. This point is decided accordingly.

In the result, this petition is dismissed.

Dictated to Steno Typist and transcribed and typed by her in computer, corrected and pronounced by me in the Open Court on this the 28th day of October 2024.

Sd/-Thiru.A.K.Mehbub Alikhan,
Additional District Judge,
Dindigul.