

IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DHARMAPURI.

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Thursday, this the 4th day of September 2025.

I.A.No.11/2025
in
O.S.No.108/2019

1.T.Natarajan
2.T.Jawahar

...Petitioners/ defendants 1and 2.

/versus/

Rajeswari

...Respondent/plaintiff.

This petition is coming on 1.9.2025 for final hearing before me in the presence of Thiru.A.Sivaraju, Advocate for the petitioners and Thiru.V.Selvamani, Advocate for the respondent and upon hearing both side arguments and on perusal of the written submissions of petitioners, entire case records and having stood over till this day, this court pronounced the following:

ORDER

This petition has been filed under Order-8, Rule-9 and section 151 CPC to file additional written statement.

2. The case of the petitioners in brief is as follows:

According to petitioners, on perusal of written statement, petitioners are advised by their counsel that some important pleas are absolutely rudimentary and basically essential for effective defence have to be included in the written statement. The pleading now sought to be raised are necessary for this Court to frame proper

issuing arising for consideration and to resolve the controversies between the parties to his suit fairly, fully and finally. Hence they are constrained to file these additional pleadings with the leave of the Court. If such leave is not granted petitioners will suffer very great hardship and irreparable injury which cannot be compensated in terms of money. The respondent / plaintiff will not and cannot suffer any prejudice on the receipt of our additional written statement. Therefore Court may be pleased to grant us leave to raise the additional pleadings by filing our additional written statement in the above suit and thus render justice.

3. The averments in the counter in brief is as follows:

i) The petitioners had come forward to file the present petition to receive additional written statement after the cross examination of the PW.1 only with the intent to drag the proceedings and further it is pertinent to note that at the first instant, the petitioners herein was set exparte later they had filed set aside exparte petition and the same was being allowed by this court and thereafter, petitioner was examined as PW1 as early as on 02-11-2019 and subsequently, the petitioner herein had earlier come up with a petition under Order 7 Rule 11 CPC before this court in I.A.No.9/2025 in O.S.No.108 of 2019 and the said petition was dismissed by this court vide order dated 24.04.2025, aggrieved as against the said order, the petitioners herein had preferred a CRP in CRP.No.2236/ 2025 before the Hon'ble High Court of Judicature at Madras and after hearing both side arguments, the Hon'ble High court was pleased to dismiss the CRP on 9.7.2025 with the direction to dispose of the suit within a

period of 4 months.

ii) After the dismissal of the aforesaid CRP and as an after thought the petitioners herein with the malign intent to drag the proceedings and to harass me had come forward with the present petition to receive additional written statement is nothing but the abuse and misuse the process of law. After two months of passing of the orders in the CRP with the direction to dispose of the suit within four months, the petitioners had come forward with the false and frivolous petition to receive additional written statement without stating any new facts and further it is pertinent to note that the petitioners had not shown any reasonable cause as to why the petitioners had not raised the plea as raised in the additional written statement at an earlier point of time and in the aforesaid situation, the entire application is bereft of particulars why no such plea has been raised at the time of filing the written statement.

iii) The petitioners had filed their written statement as early as on November 2023 and in the said Written statement the plea of limitation has already been raised by the petitioners and after having raised the plea of limitation in the written statement, the same plea cannot be raised by way of additional written statement and the petitioners having raised the said plea with the malign intent to drag the proceedings have now come forward with the present petition to receive additional written statement is not maintainable in law and the same is liable to be dismissed in limine.

4. The point for consideration:

Whether the petition is liable to be allowed or not?

5. No oral or documentary evidence adduced on both side. Heard both side arguments.

6. Point:

6.1) According to petitioners, due to inadvertence they have not stated about certain pleas of law and hard facts in the written statement. Hence they must be permitted to file additional written statement.

6.2) The respondent resisted the petition by contending that the respondents have already took plea of limitation in the written statement and only to drag on the proceedings, the petition has been filed.

6.3) This suit is filed for partition and declaration of document as null and void. The case is in the stage of PW.1 Cross, at this stage the petition is filed, this petition to permit them to file additional written statement. On perusal of additional written statement it is evident that the defendants only wants to supplement their contention of limitation and there are no new grounds raised and petitioner wants to clarify existing pleas.

6.4) The petition has been filed at belated stage, same cannot be a ground to reject it. As petitioners allege that certain important aspects have not been stated, this court is of view that an opportunity should be given to petitioners. The averments in additional written statement are not contrary to that already pleaded, but only an

enlargement of the existing plea. In instant case, the only prejudice that may be caused to the plaintiff can be due to the stage at which the application has been filed, i.e., when case is in stage of PW.1 cross examination. However, it is always open to the plaintiff to disprove the case of the defendant, by filing reply statement if necessary, by way of cross-examination and by letting in evidence to prove the case. Therefore, the prejudice that may be caused to the other side can very well be compensated by costs. On other hand, considering the nature of suit, if the petitioners are deprived of opportunity to put forth their case, it would really cause great prejudice to them. The learned petitioners counsel relied upon following judgments:

The petitioners counsel relied on the authorities of,

- 1).Olympic Industries (vs) Mulia Hussainy Bhai Mulla Akberally and others of Hon'ble Supreme Court of India, dated 7.7.2009 - (2009) 15 SCC.
- 2). State of Madhya Pradesh (vs) Virendra Kumar Tripathi of Hon'ble Supreme Court of India, dated 27.4.2009.
- 3).1.Lalith Kumar Jain @ Lalith Jain, 2.Ashokkumar (vs) 1.N.G.Deivasigamani, 2.S.Sumathi, 3.D.Dhanam, 4.M.Chenniappan, 5.C.Shanmugam of Hon'ble High Court of Madras, dated 10.11.2020.
- 4).Sivasanghu (vs) Paramasivam of Hon'ble High Court of Madras, dated 12.7.2023
- 5).1.Kalaivani, 2.Hemalatha, 3.Priyadharsini (vs) 1.G.Amutha, 2.G.Ganeshan of Hon'ble High Court of Madras, dated 7.9.2023.
- 6).Palaniammal (vs) Karuppaiah (died), 1.Nallammal and 12 others of Hon'ble High

Court of Madras, dated 31.7.2023.

7).Devanbu (vs) Sundara Raj, Susai Raj, Ramanujam of Hon'ble High Court of Madras, dated 2.2.2005 - 2005(1) CTC563.

wherein it has been dealt with guidelines for allowing petition filed seeking permission for additional written statement are applicable to facts of case.

6.5) In view of foregoing discussions, in interest of justice, to provide petitioners an opportunity to prove case, to prevent multiplicity of proceedings, petition has to be allowed. As amendment is sought for at PW.1 cross examination and considering the financial and personal inconvenience caused to the plaintiff in terms of time, additional court hearings, the plaintiff is entitled to costs. Hence point for consideration is answered in favour of petitioners.

In the result, the petition is allowed on payment of costs of Rs.4000/- to respondent. Costs to be paid on or before 8.9.2025. Call on 9.9.2025.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 4th day of September 2025.

Additional District Judge,
Dharmapuri.

Petitioners Side witness, Exhibits: Nil
Respondent Side witness, Exhibits: Nil

Additional District Judge,
Dharmapuri.

Fair Order
I.A.No.11/2025 in
O.S.No.108/2019

Dated:4.9.2025.