

**IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,  
NAGERCOIL.**

**Present : Selvi. V. Sivaranjani, B.A., L.L.B.,**

II Additional District Munsif, Nagercoil.

Monday, on the 2<sup>nd</sup> day of June, 2025.

**I.A. No. 8 of 2024 in O.S. No. 79 of 2019**

**CNR No.TNKK04-000152-2019**

1. Meena

2. B. Muthuswamy ... Petitioners / Defendants

-vs-

1. T. Ramachandran

2. Kannan

3. Thangam ... Respondents /Plaintiffs

This Petition came up before this Court on 30.04.2025 for a final hearing in the presence of Mr. A. Subramonia Pillai, learned counsel for the petitioners / Defendants, and in the presence of Mr. H. Sthanusubramony, learned counsel for the Respondents / Plaintiffs and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

**ORDER**

The petitioners have filed the above petition under Order VIII Rule 1 and 9 and Section 151 of Code of Civil Procedure, seeking to pass an order to accept the additional written statement filed by the defendants.

Gist of Averments in the Petitioners Petition :

2. The petitioner is the 2<sup>nd</sup> defendant in this case. The petitioner was filing this affidavit for and on behalf of petitioner and on behalf of 1<sup>st</sup> defendant who is petitioner's vendor. Today these defendants are filing additional written statement stating that the plaintiffs have purposely and wantonly not produced the partition deed 23.04.1952 and the mortgage deed dated 11.12.1952. As such at the time of filing the earlier written statement the defendants are not in a position to know the facts stated to the additional written statement. The plaintiffs have produced the said two documents only at the time of PW1's evidence. After having knowledge about the said partition deed dated 11.12.1952 the 2<sup>nd</sup> defendant had clarified the facts with their relatives and senior members in the village and from whom only the 2<sup>nd</sup> defendant got the information about the life of Chithambarathanu Pillai. Though the plaint schedule property was allotted to Chithambarathanu Pillai he has not mutated the plaint schedule property in his name. As such till 04.09.2014 the patta stands only in the name of original owner Abathukatha Pillai. As such his legal heirs have dealt with the plaint schedule property on 04.09.2014. Under the bonfide reason only, the defendants are not in a position to state the contention stated in the additional written statement in the earlier written statement. The same is neither wanton nor willfull intention on the part of the defendants. The facts stated in the additional written statement are not inconsistent plea with the

plea raised in the earlier written statement. As such in the interest of justice and for proper and just disposal of this case, the additional written statement may be received. Otherwise, there will be no chance bring the real facts to the knowledge of this court and thereby irreparable loss and hardship will be caused to the defendants and the same cannot be compensated by any property. Hence, this petition is to be allowed.

The 1<sup>st</sup> Respondent had filed a counter, and the same has been adopted by the 2 and 3 Respondents:-

3. The 1<sup>st</sup> Respondent had filed a counter stating that the PW1 was cross examined on 06.10.2023 and the evidence was closed on 18.10.2023. Thereafter, the defendant neither present nor adduced evidence. Thereafter, to recall PW1 and the re-examination the PW1 were filed and the court has dismissed. After the attempt of the failure to re-examination of the PW1 such a additional written statement petition is filed to delay the trial. The documents were produced even before one year back and this defendants cross examined the PW1 in full. Even after the defendants had no knowledge about Chithamparathanu Pillai means they have no idea or the origin of title about the schedule of property.

4. If through relations and senior members in the village they got knowledge they may be examined and proved the facts if it is true. The

additional written statement will not hold good. Moreover, Pleadings in the additional written statement and written statement are self-contradictory and the contrary pleadings cannot be permitted after examination of the witness that too after concluding of the plaintiff side evidence. No documents produced in support of the new pleadings. Additional written statement cannot be filed on the basis of the admissions made by the witnesses in a case. It is submitted that in para 2 of the written statement last sentence they categorically stated that **“since the property belonged to Abathukatha Pillai, the Otti deed dated 11.12.1952 could not be executed by Chithambarathanu Pillai who was not the owner of the property”**. Therefore it is clear that the defendants are filing this additional written statement without any basis. Para 3 of the written statement also they stated that Chithambarathanu has no right and no competent to execute the mortgage deed and it was a false, fraudulent invalid null and etc.

5. Further, it is submitted that once the defendants admitted in the written statement they cannot take out the admission by way of filing additional written statement. Even in the earlier recall petition and reopen petition for cross examination of PW1, (I.A.No.06/2024 and 07/2024) they have not stated about the Chidhambarathanu Pillai rights. Therefore it is crystal clear the averment now put forth is barred under law of estoppel and it is inconsistent plea. The defendants cannot appropriate and re-appropriate in pleading a case. Evidence also against the defendants pleadings. Already sufficient time also

given to the defendants on 15.07.2022 and posted on 03.08.2022. On that date 03.08.2022 the defendants endorsed no additional written statement and hence the court posted for trial on 22.08.2022. The averments stated in the para 5 and 6 concern the defendants has no right to file the petition in this stage past one year the defendants are filing petition after petition to drag on the matter and they are taking stands inconsistent to each other which cannot be permitted under the law. If the petition is allowed the entire facts and evidence has to be altered or modified which cannot be allowed in a belated stage. Additional statements cannot be allowed after completion of evidence of the plaintiffs. Which is barred under civil procedure code. In any view of the matter the petition is not maintainable. The defendants are liable for compensatory cost to the plaintiffs. Hence to accept the counter and dismissed the petition.

6) The point for consideration is whether the above petition has to be allowed or not?

7) Point:

Heard both sides. Records perused. Defendant's counsel have endorsed no additional written statement on 03.08.2022, when the opportunity opened after the plaint has been amended. PW1 examined in chief and Exts.A1 to A18 were marked on their sides on 21.07.2023 and 04.08.2023. Among the Exts.A18 documents, Ext.A12, is the Partition deed dated 23.04.1952 and Ext.A13, is the

mortgage deed dated 11.12.1952. After that, PW1 has been cross examined by the Defendants side counsel in full on 18.10.2023 itself. On the perusal of the above said cross examination, this court could satisfy that the defendant's counsel have already substantially cross examined with regard to the above said exhibits. Further, the suit has been posted for defendants side evidence since 07.11.2023. After that, the defendant's counsel have come up with the recall petition in I.A.No.6 of 2024 and the same has been dismissed on 04.07.2024 by this court. Considering the substantial cross examination done by the petitioners, also allowing this petition would be like rewinding the clock and putting us back at the starting line and cause only unnecessary delay, hence, this court is not inclined to allow this petition.

In the result, this petition is dismissed. No cost.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 2<sup>nd</sup> day of June 2025.

II Additional District Munsif,  
Nagercoil.

Petitioners side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

II Additional District Munsif  
Nagercoil.

*Draft/Fair Order*  
*I.A.No. 8/2024 in*  
*O.S.No.79/2019*  
*Date: 02.06.2025.*  
*II ADM Court, Nagercoil.*

