

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

Present: Thiru. R. Sundara Kamesh Marthandan, M.L.,
I Additional District Munsif, Nagercoil.

Friday, on the 15th day of November, 2024.

I.A. No. 3 of 2024

in

O.S. No. 266 of 2014

(CNR No. TNKK04-000619-2014)

1. V.K. Vigneskumar

2. V. Vasantha Priya

3. Vijayakumar

... Petitioners/Defendants 2 to 4

-vs -

1. Sivakami

2. Sadhasivam

3. Velammal

...Respondents/Plaintiffs and Addl.5th

Defendant

This Petition came before this Court on 12.11.2024 for final hearing, in the presence of Mr. V. Kannan, Learned Counsel for the Petitioners and Mr. A. Lawrence Peter Shaw, Learned Counsel for the Respondents. Upon hearing both sides and Upon perusing the case records, and having stood over till date for Consideration, this Court hereby delivers the following:

ORDER

1. The Petitioner had filed the above Petition under Section 151 Code of Civil

Procedure seeking an order to receive the Written Statement of Additional 4th Defendant.

2. The Petitioner had stated that since his mother, the 1st Defendant had expired, he was impleaded as 4th Defendant in the above suit. The 1st Plaintiff is also 1st Defendant's legal representative. On verification, the Petitioner found that on 27.06.2023 the chance for filing Written Statement, on his side, was closed. However he was not set exparte. Now the case is posted for PW1 cross examination. The Petitioner/4th Defendant's Written Statement, has to be received, failing which he will be put to irreparable loss and hardship. Hence the above Petition.

3. The 2nd Respondent had filed counter stating the above Petition is not maintainable. The Petitioner is well aware of Court proceedings. He had not filed the Additional Written Statement, within the time, granted by this Court and had come up with the above Petition, with the intent to drag on the proceedings. In the Additional Written Statement filed by him, he had averred about facts, irrelevant to the suit. The Petitioner had not come before this Court with clean hands. Hence the 2nd Respondent prayed for dismissal of the above Petition.

4. The point for consideration is Whether the above Petition has to be allowed or not ?

5. The fact that the 1st Defendant had died and the 4th and 5th Defendants were impleaded as legal representatives of the deceased 1st Defendant has not been disputed. Though the Petitioner had stated that, upon verification, he found that on

27.06.2023, the chance for filing Written Statement, by him was closed. He has not stated as to when, he verified and found out such fact. In fact prior to 27.06.2023 he had entered appearance, in the above suit proceedings, through his Counsel. In any case the suit is still pending, on the file of this Court, yet to be adjudicated. As such as the Petitioner/ 4th Defendant was not set exparte, taking his Written Statement on file, will give him an opportunity to effectively participate in the suit proceedings. Considering the same, this Court is of the considered view that the above Petition could be allowed.

In the result, the above Petition is allowed.

No cost.

Dictated to the Steno-Typist, transcribed and typed by her in Computer, corrected and pronounced by me, in Open Court this, the 15th day of November, 2024.

Sd/-
I Additional District Munsif,
Nagercoil.

Petitioners' side witnesses & documents : Nil.

Respondents' side witnesses & documents : Nil.

Sd/-
I Additional District Munsif,
Nagercoil.

*I ADM Court, Nagercoil.
Draft/Fair Order in
I.A.No.3/2024 in
O.S.No.266/2014
Date:15.11.2024*