

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF AT
KANCHIPURAM

PRESENT: Tmt. Fanny Rajan.B.A., B.L.,(Hons)
Principal District Munsif, Kanchipuram

On Wednesday, the 22nd day of October 2025

I.A. No. 10 of 2025

in

O.S.No. 491 of 2001

CNR No.TNKP08-000011-2001

Kalakattur Yadhava Maha Sabai Sangam, presented by its Ex-President
A. Murugan

.... 2nd Petitioner/ defendant

/Versus/

1. Thangammal (died)
2. Gnanasamandham
3. Venkatesan
4. Rabagandhi
5. Dilligandhi

.... Respondents/ Plaintiffs

This Petition has come up on 25.09.2025 for final hearing before me
in the presence of M/s.P.K. Thevarajan, G. Pandurangan, V. Vimalanathan
counsels for the 2nd Petitioner/ defendant and M/s. G. Ravikumar, counsel

for the Respondents/plaintiffs, upon hearing the argument and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

ORDER

1. The petitioner filed this petition under order 151 of CPC to Re-open the Additional Written statement in above case and to pass such other appropriate relieves and thus render justice.

Concise Statement of the averments in the affidavit filed by the Petitioner:-

2. The petitioner has averred that the above case has been filed by respondent against him for declaring the title of the suit property in favour of the plaintiffs and for consequential permanent injunction against the defendants their men or agents restraining them from in any way interfering with the plaintiff's peaceful possession and enjoyment in the suit property. The above case has been posted for the defendant side Additional Written statement. Due to Heart surgery, he could not contact his counsel and file the Additional written statement on the time. Hence it was closed and posted for Dw's. Hence this petition.

Concise Statement of the averments of the Counter filed by 2nd

Respondent and adopted by the Respondents 3 to 5:-

3. The respondents have denied the averments and averred that the above suit this court has been posted for filing Additional written statement on 24.02.2025, 28.02.2025, 13.03.2025 and lastly on 17.03.2025 this court has closed the Additional written statement. Now this vexatious additional written statement with the wrong provision petition is filed. This petition filed under Section 151 of cpc will not cloth any right upon the 2nd petitioner/defendant and hence, the above wrong petition filed. Hence, the petition is liable to be dismissed.

POINT FOR CONSIDERATION:

4. Whether this petition to Re-open the Additional Written statement closed on 17.03.2025 and to pass such other appropriate relieves has to be allowed or not?

DISCUSSION:

5. This Court considers the submissions of both the counsels and perused the materials on record. No ocular or documentary evidence has been let in by the Petitioners and Respondents.

6. On perusal of the records, it is found that the amendment as carried out on 06.01.2025 and the amended plaint was taken on record on 24.02.2025. Thereafter, opportunity was provided for filing additional written statement till 17.03.2025 and closed. It is noted that the amendment in IA No.7 of 2024 was made in respect of the schedule of the property.

7. In the instant case, the Learned Counsel for the Petitioner have specifically contended that the additional written statement was not filed as he was suffering from heart ailment. The additional written statement is necessary to defend his case on merits especially regarding the amended schedule. Per contra the learned counsel for the Respondent contends that the petition is filed under the wrong provision and hence not maintainable. Also, the reasons stated are not duly substantiated by evidence. There is no necessity for additional written statement.

8. This court first considers the contention regarding maintainability of the petition in case of wrong provision of law. It is a well established principle of law that the quoting of the wrong provision does not vitiate the right of a party from seeking any relief that the court is otherwise empowered to consider. Therefore, this court finds that though the Petition is filed under Section 151

CPC, it is noted that this court has powers to consider under Order VIII Rule 9 Code of Civil Procedure, this court has powers to consider the relief for production of additional written statement.

9. This court is of the considered view that the reason stated though vague and not reasonable, the Hon'ble Apex Court and the Hon'ble Madras High Court in plethora of cases held that as long as no malafide or abuse of process is explicitly shown, the Courts may take a liberal approach in condoning the reasons for delay and provide an opportunity to the parties to contest their case on merits. In view of the above stated, this Court may adopt a liberal approach in the case of the Petitioners and examines if there is any deliberate negligence or delay in filing the additional written statement.

10. On thorough perusal of the records, this Court finds that the main contention of learned counsel for the 1st Respondent is there is no merits in the delay reason and not supported by documents. It is a well settled principle of Law by the Hon'ble Apex Court and Hon'ble Madras High Court in a plethora of Judgments that the Courts shall always endeavour to adjudicate and decide the petitions on merits and provide sufficient opportunity the litigants for the same.

Whiles, upon perusal of the records, this court finds that after the amendment of the schedule, the petitioner failed to utilize the opportunity provided to him to file the additional written statement.

11. Under such circumstances, the reason of absence of the Petitioner is that illness. Though there is no documentary evidence filed, there is no material on record to show that the absence was malafide. Also though the respondents denied the reason, there is no material facts stated to disprove the reason quoted by the Petitioner. There is no material on record to suggest that the Petitioner had intentionally delayed the proceedings.

12. Hence, this court considers that in the absence of any material evidence, the lacuna on the part of the petitioner to file the additional written statement on 17.03.2025 does not appear to be intentional or covered with malafide and another opportunity shall be granted to him despite the vague reasoning without documentary evidence.

13. Consequentially, this Court considers that this Court shall adopt a liberal approach and finds that the reason quoted by the Petitioner can be attributable as sufficient cause to receive the additional written statement filed with this petition. Further, another opportunity shall be provided to the Petitioner/ Plaintiff to contest the petition on merits in the interest of justice.

14. This Court takes judicial note of the law laid down by the Hon'ble Supreme Court in *N. Balakrishnan v. M.Krishnamurthy* [1998 (7) SCC 123] that “*It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.*” From the above stated this court finds that an apparent inconvenience has been caused to the Respondent/Petitioner, due to the instant Petitions when the case is posted at the stage of defendant evidence. Considering the said fact, this court concludes that it is reasonable to order a sum of Rs.1000/- to be paid by the petitioners to the Respondent for the inconvenience caused.

RESULT:

15. In the result, this Petition is allowed and leave is granted to Petitioner to file the additional written statement, on the condition that the Petitioner shall pay a sum of Rs.1000/- (Rupees One Thousand only) to the Respondents on or before 29.10.2025. Call on 29.10.2025.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 22nd day of October 2025.

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM

Petitioner and defendant side witness and document : NIL

PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM