

**IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE,
TIRUCHENGODE**

Present: Tmt.G.Rubana, B.Sc., M.L.,
Additional Subordinate Judge, Tiruchengode.

On Tuesday, the 27th day of January 2026

I.A.No: 01 of 2022

in

O.S.No: 84 of 2017

1. Mrs.Ponnaya,
2. Mrs. Pappathi,
3. Mr. Manimuthu,
4. Mr. Subramani,

.....Petitioners/Plaintiffs.

//Versus//

Mrs. Kanniyammal,

.....Respondent/ Defendant.

This petition having been filed on 09.12.2022 and taken of file on 16.12.2022 and coming on 21.01.2026 for final hearing before me in the presence of Advocate Mr.R.Sekar, B.Com., L.L.B., for the Petitioners / Plaintiffs and Advocate Mr.K.R.Shanmugam, B.Sc., B.L., for the Respondent/ Defendant and having stood over for consideration till this day, upon perusing the connected material parts of records and hearing both side argument, this court doth delivers the following:

Order

This application has been filed by the Petitioners/ plaintiffs under Order 8 Rule 9 and Section 151 of C.P.C., seeking permission to file Reply Statement.

(II). The gist of the affidavit filed by the petitioners / Plaintiffs is as follows: -

(i). The petitioner submits that he is the petitioner herein and the fourth plaintiff in the suit, and that he has filed this affidavit for himself and on behalf of the other petitioners/plaintiffs. He further states that the above-said suit is posted for framing of issues.

(ii). The defendant admitted the suit claim. Hence, it is necessary to file a reply statement with regard to the shares alone. The defendant, in her written statement, has stated that the suit is bad for non-joinder of a necessary party and has further stated that the suit is hit by the admission that the petitioner's father is a joint pattadhar. Hence, it is necessary to file a reply statement. No prejudice will be caused to the other side, and therefore this Hon'ble Court may be pleased to allow this petition, failing which the petitioners will be put to irreparable loss and prejudice.

(III). The gist of the counter filed by the Respondent / Defendant is as follows: -

(i). In the counter, the respondent/defendant has stated that the present petition is false, frivolous, and not maintainable and except those averments which are expressly admitted herein, all other averments are denied by the respondent.

(ii). Further, the respondent/defendant has stated that the allegation made in paragraph 2 of the petition, namely that the respondent has admitted the claim of the petitioners and that it is therefore necessary to file a reply statement, is false.

(iii). The respondent further states that she has never admitted the claim of the petitioners and that the present petition has been filed only with a view to drag on the proceedings. It is further stated that the petition has been filed after the cross-examination of the fourth plaintiff, with a view to suppress the facts admitted during cross-examination.

(iv). The respondent further states that there is no connection between the affidavit and the reply statement, and that the present petition has been filed without any proper reason or supporting documents and is therefore not maintainable. It is further stated that the petition has been filed belatedly, and if the same is allowed, the respondent will be put to irreparable loss and prejudice. Hence, she prays for dismissal of the petition with costs.

(IV). Point for Determination :-

Whether this petition is to be allowed or not?

(i). Heard the learned counsel for the petitioner and respondents and perused the records.

(ii). The petitioners/plaintiffs have filed the suit for partition to divide the suit properties into five equal shares and to allot four such shares to them, along with a prayer for permanent injunction. On the basis of the said cause of action, it is further stated in the plaint that the suit properties are the ancestral Hindu joint family properties of Chinnaswamy. The first plaintiff is the wife of Chinnaswamy, and plaintiffs 2 to 4 are his daughter and sons, respectively. The first defendant is the wife of Rattanam, who is the deceased son of Chinnaswamy. Hence, the plaintiffs are seeking partition of the suit properties into five equal shares.

(iii). In the written statement filed by the defendant, she has denied all the averments stated in the suit and has further stated that the suit properties are Natham lands and that they belong to her husband and his father. It is further stated that her husband worked as a rig vehicle operator and maintained the family. Hence, her father-in-law had allotted the house bearing Door No. 2/18 to her husband Ratnam, and her husband paid house tax, obtained electricity connection, and was in possession and enjoyment of the same. After the demises of Rathnam, the defendant and her children are in possession and enjoyment of Door No:2/18. Further, in paragraph 13 of the written statement, further stated that the plaintiffs have suppressed the fact that the **Manaivari Thoraya Patta** stands in the names of her husband Ratnam and her father-in-law Chinnaswamy.

(iv). In the cross-examination of PW1, Subramani (4th plaintiff), he deposed as follows:

"பி.வா.சா.1 பட்டாவானது ரத்தினம் மற்றும் சின்னச்சாமி பெயரில் உள்ளது. முதலில் பட்டா எனது தகப்பனார் பெயரில் தான் இருந்தது. பின்னிட்டு பிரதிவாதி தரப்பினர் பட்டாவில் பெயரை சேர்த்துக்

கொண்டார்கள். பட்டா வழங்கப்பட்ட தேதியிலிருந்து சின்னச்சாமி பெயரிலும், ரத்தினம் பெயரிலும் தான் இருந்து வந்தது என்றும், வழக்கிற்காக நான் பொய்யாக சாட்சியமளிக்கிறேன் என்றும் சொன்னால் தவறு. பட்டாவை தாக்கல் செய்தால் உண்மை நிலவரம் தெரிய வந்துவிடும் என்பதால்தான் அதனை நான் தாக்கல் செய்யவில்லை என்று சொன்னால், பட்டா என்னிடம் இல்லை, அதனால் தாக்கல் செய்யவில்லை."

(v). In the reply statement filed by the fourth plaintiff, he has stated that,

"The defendant claimed her right in the written statement itself only on the strength of the "மனை வரி தோராய பட்டா" the said patta was cancelled, and issued a new patta in the name of the plaintiff's father in the year of 1992 under UDR.

Therefore, the defendant is not entitled to claim any right and title over the suit property, the suit may be decreed as prayed for."

(vi). On a perusal of the records, it reveals that the suit was filed in June 2017. The defendant filed her written statement on 13-12-2017, and the issues were framed on 19-02-2018. Thereafter, the matter was posted for trial and adjourned to various hearings.

(vii). On 06-09-2022, the 4th plaintiff was examined as PW-1, and Ex.A;1 to Ex.A;4 were marked. Subsequently, PW-1 was cross-examined. PW-2 was examined on 19-10-2022 and cross-examined on 22-11-2022. When the case was posted for further plaintiff side evidence on 09-12-2022, the present petition under Order VIII Rule 9 of CPC was filed, and the same is pending till date. Admittedly, the reply statement has been filed nearly five years after the filing of the written statement by the defendant.

(viii). Though the petitioners/plaintiffs have filed the reply statement belatedly, it is seen that the same is filed only to state that the Manaivari Patta relied upon by the defendant was cancelled and that a fresh patta was issued in the name of the 4th plaintiff's father, and not for any other purpose.

(ix). By allowing this petition, no serious prejudice would be caused to the respondent/defendant, as she would still have the opportunity to further cross-examine PW-1, if any additional proof affidavit is produced.

(x). Considering the delay in filing the petition, this Court is of the considered view that the delay can be compensated by imposing costs. On the other hand, if the petition is dismissed, it may result in prejudice to the petitioners.

(xi). Therefore, under the above circumstances, this Court is of the considered view that the petition deserves to be allowed, on condition that the petitioners shall pay costs of Rs.1,000/- to the respondent/defendant on or before 03-02-2026, failing which this petition shall stand dismissed automatically.

Accordingly, this petition is allowed. The reply statement filed by the plaintiff is taken on record.

Result:-

In the result this petition is allowed. Conditional order passed.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 27th day of January 2026.

Additional Subordinate Judge,
Tiruchengode.

Petitioners and respondent side oral and documentary evidence: Nil

Additional Subordinate Judge,
Tiruchengode.

Fair/Draft Order
I.A. No.01 of 2022
in
O.S. No.84 of 2017
Date : 27.01.2026.