

I.A.No.11/2025

in

O.S.No.2/2023

D.D.02.04.2025.

Order Pronounced.

This application is filed to seek permission to receive reply statement filed by the plaintiff.

2. According to the petitioner/plaintiff, the defendants 1, 6, 7 to 11 filed written statement and the plaintiff has to necessarily file a reply statement to deny the averments made in the written statement filed by the above stated defendants. If he has not given permission to file reply statement then it would amount to admission of the averments made by the defendants 1, 6, 7 to 11 in their written statement.

3. The respondents 6 to 9 contended that already the petitioner has filed an application in I.A.No.10/2024 on similar lines and that petition was dismissed by this Court on 03.12.2024 and he has not preferred any appeal or revision against the order and thereby the petitioner cannot be now permitted to file this

application to receive the reply statement. Further the plaintiff cannot be permitted to introduce new facts which was not pleaded by him in the plaint by way of reply statement.

4. Now the question that has to be decided is whether the petitioner can be permitted to file the reply statement. No doubt the defendants 1, 6, 7 to 11 were added as parties during pendency of the suit and they have also filed written statement. According to the respondents, already an application in I.A.No.10/2024 was dismissed by this Court. The perusal of the petition in I.A.No.10/2024 shows that this application is filed for amendment of the plaint to add 'C' schedule properties and that petition was dismissed on the ground that the said 'C' schedule properties are not joint family properties. But the dismissal of that application has no connection with the present application to receive the reply statement.

5. Further, the respondents also contended that the plaintiff is now making a plea with regard to the Will executed by the 5th defendant and he has also made a plea regarding the filing of Prob.O.P.No.5/2023 and other matters. These were not pleaded by the plaintiff in the plaint. So far as this fact is concerned, the Will was allegedly executed by the 5th defendant in the year 2022. The suit is of the year 1994 and it was decreed ex parte and thereafter ex parte decree was set aside and taken on file and thereafter the suit was transferred from another Court to this Court and re-numbered as O.S.No.2/2023. Therefore, during pendency of the suit, the Will had come into existence. Therefore, the plaintiff may not have an opportunity to plea about the Will at the time of filing of the suit. Therefore, the plaintiff cannot be stated to have been introducing a new plea by pleading about execution of Will in his pleadings. Therefore, the averments made by the respondents/defendants for refusing the petitioner/plaintiff from filing the reply statement is not tenable.

6. Further, if the petitioner/plaintiff was not permitted to file his reply statement, he would be much prejudiced and will be shut from making pleadings which will be very necessary for his case. Therefore, this Court is of the considered view that in the interest of the justice, this petition can be allowed.

7. In the result, this petition is allowed. No cost.

Principal District Judge,
Perambalur.

