

IN THE COURT OF DISTRICT MUNSIF, MUDUKULATHUR.

**Present: Ms.J.C.Aparna, B.A, L.L.B.,
District Munsif,
Mudukulathur.**

Monday, the 24th day of November 2025

I.A.No.03/2025

in

O.S.No.29/2023

K.Sesurathinam

..... Petitioner/ Defendant

/VS/

K. Innasi

..... Respondent/Plaintiff

This petition came on 29.10.2025 before this court for a final hearing in the presence of Thiru.T.Ramanathan, Learned Counsel for Petitioner/ Defendant and Thiru.H.Muralidharan, Learned Counsel for the Respondent/Plaintiff and upon hearing both sides enquiry and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition has been filed under Order 8 Rule 9 and Sec 151 of Civil Procedure Code prays to accept the additional written statement.

2. Brief averments of the Petitioner/defendant in brief:-

The petitioner is the defendant of the main suit. He states that in the main case a written statement has been filed by him and that he is now seeking to file an additional written statement as certain fact have been brought to this knowledge only now and the delay was not intentional. If the petition is not allowed, they will be put to irreparable loss and hardships. Therefore prays to allow the petition.

3. Brief averments of Respondent/plaintiff in brief:

The respondent denies the averments in the petition. The provision has been wrongly mentioned and is filed under section 151 of CPC instead of the correct provision. As per OR 8 R 9 no subsequent pleadings can be filed except as a reply to a setoff or a counterclaim. Also the petition is filed under wrong provisions. As per ROC of the Honorable High Court of Madras, the Order 8 rule 9 has been deleted. Hence this petition is liable to be dismissed.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

No documents filed on either side. Heard both sides.

5. Answer to Point :-

5.1. The learned Counsel appearing for the petitioners contended that only now they came to know about certain facts which are important to prove their case. Hence the same could not be pleaded earlier. The learned counsel appearing for the respondents contended that this petition is much belated one. The only intention of the petitioners is to drag on the proceedings and without permission additional pleadings cannot be filed except as a reply to a setoff or a counterclaim. Also the petition is filed under wrong provisions. As per ROC of the Honorable High Court of Madras, the Order 8 rule 9 has been deleted. Hence this petition is not maintainable.

5.2. Heard the rival contentions made by both sides' counsels. Perused the records available before this court. It is settled law that the petition cannot be dismissed solely on the ground that the provision is wrongly mentioned if the contends and the prayer explains intent. One other stand taken is that no subsequent pleadings can be filed without the permission of the court except as a reply to a setoff or a counterclaim. This petition is clearly filed for seeking such a permission. The other ground taken is that as per ROC of the Honorable High

Court of Madras, the Order 8 rule 9 has been deleted. Hence this petition is not maintainable. On perusal of the said ROC, it can be seen that the ROC as mentioned in the counter is only applicable to the Honourable High Court on the appellate side.

5.3. On examination of the written statement and additional written statement filed by the petitioners/defendants establishes that, no contrary view has been taken by the petitioners in their additional written statement, while this being so, no prejudice to be caused to the respondents/plaintiffs as compared to the petitioners/defendants when the leave is denied. Also in the case on hand the trial is not yet commenced. Further when the additional written is an explanatory of the earlier written statement it cannot be dismissed on the ground of delay alone as it is a court of first instance. Therefore, this court is of the view that unless an opportunity is granted to adduce the proposed additional written statement, the petitioners will be put to irreparable loss and hardship.

5.4. Hence in the interest of justice this court is inclined to allow the petition. However, for the hardship caused to the other side by the reason of delay, the petition is allowed on a condition that the petitioner shall pay a cost of Rs.500/- to the respondent/plaintiff on or before 01.12.2025 failing which this petition shall stand dismissed.

6. In the result, this petition is allowed and failure to comply with conditions mentioned in the order, the petition shall automatically stands dismissed.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 24th day of November 2025.

**District Munsif(F.A.C),
Paramakudi.**

Both side witnesses and documents : Nil

**District Munsif(F.A.C),
Paramakudi.**