

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, ATTUR**

PRESENT : **Tmt. D. JANSIRANI, MBA., LL.M.,**  
ADDITIONAL DISTRICT MUNSIF, ATTUR.

Tuesday, 5<sup>th</sup> day of August 2025

**I.A. No. 6/2024 in O.S. No. 438/2006**

**CNR No. TNSA13-000010-2006**

1. Sellamuthu  
2. Murugesan  
3. Palanimuthu . . . Petitioners/Plaintiffs

/Versus/

1. Senaiammal  
2. Vijaya (Died)  
3. Ponnammal (Died)  
4. Valarmathi  
5. Jaya  
6. Poongothai  
7. Yasodha . . . Respondents/Defendants

This petition is came up for final hearing before me on 23.07.2025 in the presence of Thiru.P.Ravindran, Advocate for the Petitioners/Plaintiffs and, Thiru.P.Ramasamy, Advocate for the Respondent 4 and 5, and Thiru.K.Chandrasekaran, Advocate for the R7, upon hearing the enquiry on either side, and upon perusing the materials records, and having stood over till this day for consideration, this date, this court delivers the following,

**ORDER**

The Petitioners/Plaintiffs have filed this petition under Order.8 Rule 9 CPC praying to receive the reply statement filed along with this petition.

**2. Brief averments made in the petition :**

The petitioner/plaintiff herein is the 3<sup>rd</sup> plaintiff in the original suit. He filed the petition himself and on behalf of the other petitioners/plaintiffs. They have filed the suit for the relief of the declaration and permanent injunction with respect to the suit pathway.

The petitioners/plaintiffs state that subsequent to this suit the 1<sup>st</sup> respondent /defendant filed a suit against the Defendant No 3 to 5 for the relief of permanent injunction for this suit property along with some other property on the file of this Hon'ble Court in O.S.No.184/2012. During pendency of this suit the 3<sup>rd</sup> defendant namely Ponammal was died. After a long time the defendant No 4 and 5 filed their written statement in this suit on June 2024, with full of suppression of facts and also false content. Further the defendant 4 and 5 registered a collusive preliminary decree in O.S.No.522/05 after a lapse of 18 years and filed the same in their delayed written statement. The said preliminary decree and its registration are not binding the petitioners/plaintiffs. The registration of the preliminary decree is Lis-pendency one and it will not act upon. Hence it is very essential for the petitioners/plaintiffs to file the reply statement to prove the real things before this Hon'ble court.

The suit property of this suit, is included in the said O.S.No.184/2012 suit also. Already the defendants in this suit filed a suit for partition in between them by suppressing the right of the plaintiffs over the suit pathway and defendant and the 2<sup>nd</sup> defendant, as if the partition had not already taken place and filed O.S.No.155/2005 in the court of the District Munsif of Attur, brought into the existence a compromise decree dt.27.01.2006 to knock away some more amount from the plaintiffs. The said decree had not been acted upon. It does not in any way affect the agreement dated 07.07.1995 brought into existence by law full means and recognition of the already existing easement rights prescribed by the plaintiffs and predecessors.

Once again the respondents /Defendants filed the said suit on the file of this Hon'ble court in O.S.No.184/2012 regarding the suit property to defraud against the petitioners/plaintiff. The said reply statement filed herewith is essential one to decide the suit on merits otherwise the petitioners /plaintiffs are put to irreparable loss and hardship and it will not be compensated by any means. Hence this petition.

2. **Brief averments made in the counter of 4<sup>th</sup> respondent and adopted 5<sup>th</sup> respondent:**

The respondents denied the all averments made in the petition and further stated that the suit filed by the plaintiffs in the year of 2006 for the reasons best known to them they are not come forward to conduct trial in the suit. The averments stated in the reply statement are all false and incorrect. The plaintiffs are not party to the suit O.S.No. 522/2005 if at all the petitioners/plaintiffs having any right over the suit property, they ought to have to implead as a party to the suit O.S.No.522/2005 actually if they are having the alleged pathway agreement deed.

The said pathway agreement deed is forged and created one by the plaintiffs for getting pathway through the properties allotted to the deceased 3<sup>rd</sup> defendant. The petitioners/plaintiffs are having no manner of right to discuss about the decree passed in the partition deed O.S.No.522/2005. The reply statement filed by the petitioners/plaintiffs are all not necessary to decide the case on merit. There is no toto of truth in the petition. The petitioners/plaintiffs are not come to this Hon'ble court with clean hands. Hence prayed for dismissal of this petition.

3. ***Now the point for consideration is Whether the petitioner/Plaintiff is entitled to get the relief prayed in the petition?***

4. Both side argument heard. The petition, counter and records are carefully perused.

It is evident from the records that the written statement of defendants 4 and 5 was filed only in June 2024 after a long gap from the filing of the suit. The reply statement sought to be filed by the plaintiffs is in response to the contentions raised therein, particularly relating to the alleged preliminary decree in O.S. No. 522/2005, which the plaintiffs assert to be collusive and non-binding.

Order VIII Rule 9 CPC empowers the court to grant leave for filing additional pleadings, including a reply statement, if the same is found to be necessary for determining the real questions in controversy.

In the present case, the reply statement does not introduce any new cause of action but only seeks to clarify and rebut the issues newly raised in the belated written statement of defendants 4 and 5. Denying the opportunity to file the reply statement would cause prejudice to the plaintiffs and hamper effective adjudication of the matter. The objections raised by the respondents can be addressed during trial and by way of evidence, and allowing the reply statement does not in any way take away the respondents' right to contest its correctness.

**In the result,**

This petition is allowed. No cost.

This Order is dictated to the Steno typist directly, typed by her, corrected and pronounced by me in the open court on this the 5<sup>th</sup> day of August 2025.

**Additional District Munsif  
Attur**

List of Documents and Witnesses on Both side:

**Nil.**

**Additional District Munsif  
Attur**

A.D.M. Court, Attur.

DRAFT / FAIR ORDER

I.A. No. 6/2024 in O.S. No. 438/2006

Dated : 05.08.2025