

IN THE COURT OF ADDITIONAL DISTRICT JUDGE,

ADDITIONAL DISTRICT COURT, SIVAGANGAI.

**Present: Tmt.R.Sathiathara,M.A.,M.L.,
Additional District Judge,
Additional District Court,
Sivagangai.**

Dated Friday, the 21st day of February 2024.

2055 Thiruvalluvarandu Sobakrith on Friday 09th day of Masi Thingal

I.A No. 3/2024

in

OS. No.40/2015

K.S.Govindarajan

..Petitioner/Defendant

//Vs//

S.P.Nagendran

..Respondent/Plaintiff

This petition is coming on 15.02.2024 before me in the presence of Thiru.K.Alagappan, counsel for the petitioner/defendant and Thiru.L.Saravanan, counsel for the respondent/plaintiff and on perusal of records and documents and this court delivered the following:

ORDER

Petition filed under section 151 of CPC to accept the additional written statement filed by petitioner/defendant.

The averments in the petition in brief is as follows:

2. The petitioner is the defendant in the suit. The respondent is the plaintiff who and filed suit for declaration and recovery of possession. The petitioner filed

written statement and omitted to mention certain important information. The respondent/plaintiff filed suit in collusion with this respondent brothers son Thiru.Karthikraja, Advocate and his sisters Kala and Meena sold the property on 26.11.2009 beyond the extent mentioned in Will. Hence the petitioner ought to be permitted to file additional written statement. Otherwise, he will be put to loss and hardship. The respondent will not have any valid objection. Hence petition filed.

The averments in the counter filed by the respondent/plaintiff in brief is as follows:

3. The reason stated in the petition to receive the additional written statement is false. Infact, Thiru.Karthikraja son of Varadharajan is in collusion with petitioner/defendant. This additional written statement filed in after thought to fill up the lacunae in the cross examination of plaintiff. The averments in the additional written statement are in contrary to written statement. Hence this petition to be dismissed and not maintainable in law as in contrary to Order 8 Rule 1 of C.P.C.

4. Points to be decided:

Whether petition to be allowed to accept the additional written statement filed by petitioner/defendant as prayed for?

5. On the side of petitioner and respondent no oral and documentary evidence adduced.

Points for consideration:

6. The petitioner is the defendant in the suit. The respondent is plaintiff who filed suit for declaration and recovery of possession in the suit. The Petitioner states

that the petitioner filed written statement and omitted to mention certain important information. The respondent/plaintiff filed suit in collusion with this respondent brothers son Thiru.Karthikraja, Advocate and his sisters Kala and Meena sold the property on 26.11.2009 beyond the extent mentioned in Will. Though the respondent/plaintiff contend that this petition filed to fill up the lacunae in his cross examination and the details of additional written statement is in contrary to written statement filed and the pleadings are contrary to Order 8 Rule 1 of CPC, the respondent is having opportunity cross examine the petitioner/defendant witness and he will not be prejudiced in receiving the additional written statement. Hence, I answer the point in favour of the petitioner.

In the result, petition allowed. No cost.

Dictated by me to the typist, dictated and typed by him, corrected and pronounced by me in the open court, this the 21st day of February 2024.

**Additional District Judge,
Sivagangai.**

List of witnesses and documents on the side of the Petitioner and respondent:
NIL

**Additional District Judge,
Sivagangai.**