

IN THE COURT OF IVth ADDITIONAL DISTRICT JUDGE, UDUMALPET.

PRESENT: Thiru.M.Nambirajan,, B.A., B.L.,

IVth Additional District Judge, Udumalpet.

Tuesday, the 8th day of July, 2025

IA.No. 4 of 2025 in O.S.No.170 of 2020

R.Baskaran

... Petitioner/Plaintiff

Vs.

R.Banumathi

... Respondent /Defendant

This Petition came before me for final hearing today in the presence of Thiru.G.Meeran Moideen, Advocate for the Petitioner/Plaintiff and Thiru.S.Sivakumar Advocate for the Respondent/ Defendant and having heard both sides and on perusal of the records and having stood over for consideration till this day, this court delivers the following :-

Order

The petition has been filed under order 8 rule 9 CPC to receive reply statement filed by the petitioner/plaintiff.

2. Precis on the petition:-

The Petitioner is the plaintiff in the suit. The petitioner had filed a suit for partition and other reliefs against the respondent. The defendant has filed her written statement claiming counter claim based on the invalid will said to have been executed by deceased Ramanujam who is none other than the father of petitioner and the defendant. In the counter claim made by the defendant, she has stated many false particulars which are unsustainable in law and on facts and the petitioner to file a reply statement against the counter claim of the respondent/defendant. The will dated 17.05.2013, was not executed out of own volition of deceased Ramanujam and on the other hand it could have been

obtained only at the instigation of the defendant and also by threat and coercion since petitioner father Ramanujam have not in a sound mind and he have not any idea about the execution of the will. Petitioner has been constrained to file reply statement for the counter claim made by the defendant and able to obtain all the relevant document recently, which are all very necessary and important to prove the case and the treatment done to petitioner father for the injuries he got in an accident occurred on 12.04.2012 in petitioner reply statement. It is necessary to file the reply statement to falsify the case of the defendant as narrated in the counter claim. The Reply statement to explain everything about the treatment for petition's father head injury and other injuries which he got in an accident and order to receive the same, if not the petitioner will be put into much loss and material injuries. Hence this petition.

3. Counter statement filed by the respondent/defendant:

The petition is not maintainable either in law and on facts. Respondent denies the entire allegations in the petition. The petitioner has to prove all the statements in the petition except which are specifically admitted by respondent. The will executed by Ramanujam could have been obtained by threat and coercion since Ramanujam was not in a sound mind. To drag on the case the petitioner has stated a false content and avornment in the counter claim are all false and invented story for the purpose of defeating the petitioner's rights. The petition filed by the petitioner is a time barred one. The suit was filed in the year 2020. This respondent has filed her written statement and the counter claim long back. The copies have been properly served upon the petitioner. Even after receiving the copies the petitioner has not taken any steps to file his reply statement within stipulated time. The case is ripe for trial and after several hearings the petitioner have come forwarded with this petition to drag on the case. Because of the long delay this respondent was put ot very great loss and this petition has to be dismissed.

4. Point for consideration is, whether the petition can be allowed or not?

5. Heard perused

6. This an application filed by petitioner/plaintiff to receive reply statement under order 8 rule 9 of CPC. It is contended by the learned petitioner counsel that the petitioner had filed this suit for partition against the respondent and that the petitioner and respondent are brothers. Further it is contented that the respondent had filed the written statement in the original suit, in which, he had claimed in the based on the invalid will dated 17.05.2013, which was alleged said to have executed by Ramanujam, who is non other than father of the both parties. Besides, it is contended that at time of alleged execution of will, the petitioner father Ramanujam had not in a sound mind and that he had sustained injury due to the accident on 12.04.2012 and that the above said will had obtained on the instigation of the respondent, by means of threat and cocercion. Therefore, the petitioner has filed this application to receive the reply statement to counter blast the counter claim of the respondent/defendant.

7. Per contra the learned respondent has contended that this petitioner had filed this petition with inordinate delay and that the respondent had filed written statement and counter claim long back and the petitioner has not filed the reply within a stipulated time and thi suit is riped for trial, in the circumstances, if the petition is allowed, it would be much hardship and difficulties to the respondent. Hence this petition is liable to be dismissed.

8. On considering the both sides submissions, it is learnt that the petitioner filed suit for partition respect of the schdule of property, in which the respondent had filed written statement/counter claim on 03.11.2020 and that, the suit is riped for trial. The trial is not commenced till date. In the circumstances, this court felt that if the petition is allowed, it will not be prejudice to the respondent, besides, on perusal of available material, it is showed that the petitioner has not filed the reply statement within the stipulated time of 90

days, anyhave, in the interest of justice, and in order to decide the real dispute between the both parties, this petition will be allow the following the conditions:-

Result:-

In the result, this petition will be allowed on payment of cost of Rs.2000/- to the respondent on or before 28.07.2025 failing which, this petition shall stands dismissed. Call on 29.07.2025.

Dictated by me to the Steno-Typist, transcribed in Short-hand, computerized by her and corrected by me and pronounced in the Open Court on this the 8th day of July, 2025.

Sd/-M.Nambirajan,
IVth Additional District Judge,
Udumalpet.

Both sides witness and Exhibits : Nil.

Sd/-M.Nambirajan,
IVth Additional District Judge,
Udumalpet.

Fair/ Final Order
IA No.4/2025 in
O.S.No.170/2020
D.D: 08.07.2025
IVth ADJ Udumalpet