

**IN THE COURT OF IV<sup>th</sup> ADDITIONAL DISTRICT JUDGE, UDUMALPET.**

**PRESENT: Thiru.C.Rajalingom, B.A., B.L.,**

IV<sup>th</sup> Additional District Judge, Udumalpet.

Thursday, the 12<sup>th</sup> day of December, 2024

**IA.No. 1 of 2013 in O.S.No.161 of 2015**

Mrs.Savithiri

... Petitioner/Plaintiff

Vs.

1. Thirumathal,
2. Vadivelu,
3. Balasenthilkumar,
4. Vallinayagam,
5. Mohanasundari,
6. Saradambal,
7. Mahalakshmi.

... Respondents /Defendants

This Petition came before me for final hearing on 28.11.2024 in the presence of Thiru.A.Chinnasamy, Advocate for the Petitioner/Plaintiff and Thiru.T.Nainar Mohamed, Advocate for the 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>,7<sup>th</sup>Respondents/ 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>,7<sup>th</sup>Defendants and Thiru. C.Jayabalan, Advocate for the 2<sup>nd</sup> Respondent/ 2<sup>nd</sup> Defendant and Thiru.D.Sundraraj, Advocate for the 4<sup>th</sup> Respondent/4<sup>th</sup> 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 respondents. The petitioner was examined in chief as Pw1 and subsequently the 2<sup>nd</sup> defendant filed additional written

statement containing totally false and untenable allegations that there was a decree in OS.No.7/2005 on the file of the Subordinate Court, Udumalpet and those statements mentioned in the additional written statement are to be denied by petitioner/plaintiff by way of reply statement. Petitioner/Plaintiff noticed such misleading statements only at the time of preparing the suit for Trial and unless those misleading statements are denied by petitioner in the pleadings it is not possible for petitioner to adduce oral and documentary evidence in those aspects. Petitioner not wanton or willfully negligent in filing the reply statement on earlier occasion. The petitioner/plaintiff file the enclosed reply statement and order to receive the same, if not the petitioner will be put into irreparable loss and material injuries. Hence this petition.

**3. Counter statement filed by the 3<sup>rd</sup> respondent and adopted by 4,5 and 7 respondents:**

The petition is not maintainable either in law and on facts. The petitioner suppressed material facts. She stated that after the additional written statement only she had a knowledge about the OS.No.7/2005 is false. In fact on 29.11.2005 itself she sent a letter to the Subordinate Judge, Udumalpet, about the OS.No.7/2005. But, she willfully make some allegations against his advocate. If her advocates did not co-operate with her she can very well appoint an another advocate to conduct the suit. The petitioner directly knew about the suit around 18 years. More over the petitioner is a decree holder, so the reason for the petition is untenable and this petition has to be dismissed.

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

5. Upon considering the submissions on either sides, this is a petition to permit that petitioner/plaintiff to accept the reply statement. The contention of the petitioner is that during the trial proceedings the 2<sup>nd</sup> respondent filed an additional written statement containing false and untenable allegations and also the suit in OS.No.7/2005 on the file of the Subordinate Judge, Udumalpet.

Hence, it is necessary to plead her contention by way of reply statement. On the other hand the other side would contend that the petitioner had a knowledge about the suit several year back but she willfully suppressed all the facts. Having heard the submissions on either sides, admittedly the 2<sup>nd</sup> respondent filed an additional written statement and the petitioner wants to deny the facts then only she could lead evidence on those aspects as contend by the petitioner is considered and convinced. Hence, this court is inclined to give an opportunity to the petitioner to plead her stand by way of reply statement.

**Result:-**

This petition is allowed without costs.

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 12<sup>th</sup> day of December, 2024.

IV<sup>th</sup> Additional District Judge,  
Udumalpet.

**Both sides witness and Exhibits :** Nil.

IV<sup>th</sup> Additional District Judge,  
Udumalpet.

Fair/ Final Order  
IA No.1/2023 in  
O.S.No.161/2015  
D.D: 12.12.2024  
IV<sup>th</sup> ADJ Udumalpet