

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
TIRUVANNAMALAI.

PRESENT : **P. Mathusuthanan**, B.A., B.L.,
Principal District Judge,
Tiruvannamalai.

Wednesday, the 23rd day of April, 2025.

I.A.No.03/2025 in O.S.No.291/2022

Gothavari ... Petitioner / Plaintiff

versus

1. Vanaja
2. Dayanithi
3. Sasikala
4. Subha
5. Surya
6. Durgabai
7. Babu
8. Kaveri
9. Nalina
10. Prabhu
11. Barathi
12. The Joint Sub-Registrar-2,
Tiruvannamalai.
13. The District Registrar
(Administration),
Tiruvannamalai.
14. The Tahsildar,
Tiruvannamalai.
15. The Commissioner,
Tiruvannamalai Municipality,
Tiruvannamalai. ... Respondents / Defendants
16. The District Collector,
Tiruvannamalai.

This Interlocutory Application has been came up for final hearing before me on 22.04.2025 and upon hearing the arguments of Mr.V.Loganathan,

Learned Advocate appearing for the Petitioner and Thiru.S.Abiraman, Learned Advocate appearing for the Respondents 6 to 8, 10, 11 and Thiru.G.Pugazhenti, Learned Government Pleader filed Memo of Appearance for the Respondents 12 to 14 & 16 and the Respondents 1 to 5, 9 & 15 were called absent set exparte in the suit and upon perusing the available records and having stood over for consideration till this day, this court passed the following...

ORDER

The petitioner filed this petition u/s.151 of CPC., seeking to permit the petitioner to cause produce the Reply statement.

2) **Brief averments of the petition:**

The petitioner herein is the plaintiff in the above suit. She has filed a suit as against the respondents herein seeking the relief of partition over the suit property. After she entered into the box and filed a proof affidavit and the matter was posted for cross examination, she came to know the fact that the respondent herein in their written statement has stated as if their mother executed a Will dated 06.12.2001, 05.04.2007 in favour of the defendant herein for which the petitioner herein wants to file his reply statement. Hence, seeking leave for filing the petition has come forward with this petition.

3) **Brief averments of Counter filed by the 10th respondent and adopted the Respondents 6 to 8 & 11:**

The petition filed by the petitioner is a false, frivolous, except those that are specifically admitted by this respondent here under and the petitioner is put into strict proof of entire averments made in the petition. The respondents herein have already sent in their legal notice dated 12.04.2022, 03.12.2022 itself elaborate about the existing of Will dated 06.12.2001, 05.04.2007 respectively. Hence, the contention of the petitioner that she came to know about the existing of Will only after perusing the written statement filed by the respondent in the main suit. Hence, the petition is liable to be dismissed with cost of this respondent.

4) **Point that arises for consideration in this Petition is that**

Whether this petition is to be allowed as sought for?

5) **Point:** The learned counsel appearing for the petitioner would contend that she has filed a suit as against the respondents herein seeking the relief of partition over the suit property. She would further submit that after she entered into the box and filed a proof affidavit and the matter was posted for cross examination, she came to know the fact that the respondent herein in their written statement has stated that as if their mother executed a Will dated 06.12.2001, 05.04.2007 in favour of the defendant herein for which the

petitioner herein wants to file his reply statement. Hence requested granting of leave for filing the petition.

6) **Per contra**, the learned counsel appearing for the respondent would contend that the respondents herein in their legal notice dated 12.04.2022, 03.12.2022 itself elaborated about the existing of Will dated 06.12.2001, 05.04.2007 respectively. Hence, the contention of the petitioner that she came to know about the existing of Will only after perusing the written statement filed by the respondent in the main suit is not acceptable. Hence, he argued for dismiss the petition.

7) **Heard. Perused the records.**

8) The petitioner has come forward with this application to file his reply statement to the averments found in the written statement of the respondents in respect of the Will allegedly executed by their mother in favour of the respondent herein. The contention of the petitioner requesting to file a reply statement in my considered opinion does not seems to be a irrelevant one. Eventhough there was a delay on the part of the petitioner to file such a reply statement on their part that delay alone cannot be permitted to defeat the legal right of the plaintiff in contesting their case in effective manner by rebutting the plea of defendants and in the event of allowing this application no prejudice seems to be caused to the respondents herein as they have every right to test the contention of the petitioner in this regard during the cross examination of PW1.

Hence having considered the above reasons and discussion this court is inclined to allow this application and thus, this point is answered accordingly.

In the result, this petition is allowed. No costs.

This Order is dictated by me to the Stenographer Grade-III of this Court, transcribed by her in Computer, corrected and pronounced by me in open court, this the 23rd day of April, 2025.

**Principal District Judge,
Tiruvannamalai.**

Draft / Fair Order
IA.No.3/2025 in
O.S.No.291/2022
D.O.O: 23.04.2025.