

**IN THE COURT OF DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,
KILPENNATHUR.**

Present: Thiru.M.C.Arun, L.L.B.,
District Munsif-cum-Judicial Magistrate, Kilpennathur.

11th day of December, 2025, Thursday.

IA.No. 3/2025

in

OS.No. 70/2024

Ramamurthi

..... Petitioner/Defendant

-Vs-

1. Minor, Gowtham, Rep. by his mother, Indirani.

2. Krishnamoorthi

..... Respondents/Plaintiff

This Petition is coming before me on 26.11.2025 for final hearing in the presence of Thiru. P. Anbalagan, learned counsel for the Petitioner/Defendant and Thiru. M.Jayavel, learned counsel of Respondents/Plaintiffs and upon perusing the case records having stood over for consideration till this day, this Court delivers the following;

ORDER

This petitioner filed the petition under order 8 rule 9 of CPC and prayed to permit the petitioner to file additional written statement and to receive the same.

1. Crux of the petition:

The petitioner submits that the petitioner is the defendant in the suit. The respondent filed the suit against this petitioner for declaration and permanent injunction in respect of the suit property by suppressing the true facts. The petitioner further submits that he has filed written statement denying the case of the respondent and the petitioner further submits that the petitioner failed to state the partition which took place between the petitioner/defendant, his brother Krishnamoorthi and his

father Rajamanickam on 10.12.2003, the survey no.of the suit well property was wrongly mentioned as survey No. 27/1 instead of 27/2A by mutual mistake of the parties and further except the suit well survey no. 27/2A, there is no well belonging to joint family consisting the defendant, his brother Krishnamoorthi and his father Rajamanickam and so the petitioner wants to filed additional written statement to that effect and failure of not mentioning of said pleading is neither willful nor wanton so prayed to allow this petition.

2. Crux of the counter:

(2.1) This petition is not maintainable either in law or on facts and same is frivolous, vexatious and unsustainable either in law or on facts and deserved to dismissed in limini. The respondent does not admit any of the allegation contained in the petition except which are admitted herein and the allegations mentioned in the petition is to be proved very strictly by the petitioner alone.

(2.2) The respondent submits that allegation contain in para 2, 3 is false. They submits that suit was filed the year 05.03.2021 and Vakalath was also filed the petition on 08.04.2021 and written statement was also filed on 01.11.2021 and parallely injunction application was also disposed in IA.No 108/2021 and the petitioner also filed the documents Ex.R1 and Ex.R2 and the said partition deed dated 10.12.2003 was also filed and thereafter issue were also framed and plaintiff was also chief examined and marked Ex.A1 to Ex.A8.

(2.3) The respondent further submits that the said partition deed was acted upon and father Rajamanicka had also obtained patta based on deed in his name and also enjoyed suit well and the said Rajamanickam as absolute owner of the suit property sold property to 1st plaintiff on 17.12.2020 and the said 1st plaintiff also get transferred patta and other revenue records in his name. After 32 years from the execution of partition deed, alleging the suit survey no is wrongly mentioned as 27/1

instead of 27/2A and the allegation that there is the mutual mistake of the parties is not acceptable. This respondent submits that there are three wells belonging to the family and in which the suit well is allotted to the father Rajamanickam and same is well known to the petitioner and so this petition is devoid of merits filing of additional written statement and prayed to dismiss the petition.

3. Point for consideration whether the petition could be allowed or not?:

(3.1) Heard. Records perused. The counsel for the petitioner submits that survey no. is wrongly mentioned as 27/1 instead of 27/2A by mutual mistake of parties and the suit well mentioned in the plaint is the well for both plaintiff and defendants and the said contention was not pleaded in the written statement filed by the petitioner and so he wants to file the subsequent pleading under order 8 rule 9 of cpc. Counsel for the respondent submits that this petition is not maintainable as the case is in the stage of PW1 cross examination and further added finding the mistake in the partition deed 2003 after 32 year from the date of registration is not a significant one and further stating the survey no. 27/2A is mentioned as 27/1 wrongly in the said deed and same was mutual mistake of the parties and the same this petitioner wants to plead the same as addition written statement.

(3.2) This court is of opinion that both parties are brothers and the dispute arose in pursuance of partition deed and sale registration deed and so the petitioner filed this petition to plead the correct survey no. as mentioned in the partition deed and further the version of the defendant may be multiple in the course of the suit proceedings. However, the written statement was filed in the year 2021 but now, the petitioner wants to file addition written statement by invoking the power under order 8 rule 9 of CPC. Considering the facts and circumstances and the filing of the additional written statement will not cause any changes in the suit this court being the trial court it is very necessary to give an opportunity to the petitioner.

4. **Hence**, this petition is allowed without cost. The petitioner is directed to file the additional written statement within 30 days from today.

Dictated to the Steno-Typist, directly typed and computerized by her, corrected and pronounced by me in the Open Court on this, the 11th day of December, 2025.

District Munsif-cum-Judicial Magistrate,
Kilpennathur.

Petitioner side Evidence	: Nil
Petitioner side Document	: Nil
Respondent side Evidence	: Nil
Respondent side Document	: Nil

District Munsif-cum-Judicial Magistrate,
Kilpennathur.