

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.

Wednesday, the 10th day of June 2026.

INTERLOCUTORY APPLICATION NO.8 OF 2026

In

I.A. NO.7 OF 2026

in

O.S. NO.152 of 2015

S.Kannimma

..... Petitioner/Petitioner/Plaintiff

Versus

1. P.Kumar

2. Mageshwarikumar

3. K.Jayachithra

.....Respondents/Respondents/Defendants

This petition came up before me for final hearing on 10.06.2026 in the presence of Mr.G.Nanthagopal, Learned counsel for the petitioner and Mr.R.Sekar, Learned counsel for the Respondents. Upon hearing the arguments made by the learned counsels for the petitioner and the respondents, and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition has been filed under Order 8 Rule 9 of CPC and read with Section 151 of Civil Procedure Code to permit him by subsequent pleading to file a reply statement to the counter filed by the Respondents/defendants in proceeding of the case.

2. **Brief averments of the affidavit filed by the petitioner are as follows:**

The petitioner herein is the plaintiff in the suit. The petitioner is bedridden due to illness and is unable to attend the court proceedings personally. Therefore, the petitioner's husband continues to depose as PW2 and has produced the documents

filed by the petitioner in I.A. No. 7 of 2026. The respondents have filed their counter to the petitioner's application. The petitioner intends to file a reply thereto, as she is fully acquainted with the facts and circumstances of the case. She has now instructed her counsel, who is appearing on her behalf, to prepare and file the same. Hence, this petition.

3. Brief averments of the counter filed by the 1st respondent/defendant and adopted by other respondents/defendants are as follows:

3.1. The respondents herein are the defendants in the suit. The suit is filed by the petitioner plaintiff who has sought for the relief of permanent injunction in respect of the property. The present application has been filed under Order VIII Rule 9 of the CPC to permit the plaintiff husband by subsequent pleadings as reply to the counter filed by respondent in proceedings of the above case. The petitioner/plaintiff seeks the relief of injunction against her own brother and also claims that the Will has been forged. In the suit petitioner/plaintiff has been examined in full. Subsequently the petitioner wanted to examine her husband as PW2. The petitioner/plaintiff has filed IA.No.6 of 2026 and counter also has been filed by the respondent/ Similarly the petitioner/plaintiff has filed IA.No.7/2026 and the counter also has been filed under Order VIII Rule 14(3) of CPC to grant leave to file the documents and counter also has been filed in I.A. by the respondents/defendants Subsequently the respondent/plaintiff has chosen to file reply to the counter filed by the respondent/defendant. The petitioner/plaintiff has not filed any application seeking permission of this court for filing of the reply counter and without filing any application seeking the permission of this court to file reply counter is not maintainable. Reply counter has been filed by the petitioner/plaintiff for the counter filed by there respondent/defendants in IA.No.7 of 2026.

3.2. The respondent further states that under Order VIII Rule 9 CPC no pleadings subsequent to the written statement of a defendant other than by way of defense to a set of or counter claim shall be presented except by the leave of the court and upon

such times as the court things fit. The petitioner in this application has stated that due to her ailment the PW2 the husband of the plaintiff is deposing and the petitioner is seeks for reception of documents stating that PW2 is competent person under Section 120 of the Indian Evidence Act. The PW2 being the husband competent witness but he cannot be permitted to file the documents and mark the documents on behalf of his wife the sole plaintiff in the above suit. Subsequent pleadings with regard to the subject matter of litigation. PW2 is a third party to the proceedings and the PW2 has no personal knowledge about the documents and as such this application cannot be filed by the petitioner under Order VIII Rule 9 CPC to make subsequent pleadings to the reply counter filed by the petitioner.

3.3. The respondent states that through PW1 Will dated 09.12.2009 was marked as early as 19.09.2025 as Exhibit B1 and cross examination also done pertaining to the document and she has admitted that she has paid some amount to her brothers and sister as stated in Exhibit B1 and Will was acted upon. Now the petitioner wants to dispute the Will to her husband. Only legal heirs of testator can dispute. PW2 has no right to speak about the said Will which was already been admitted and marked as Exhibit B1. There is no necessity for additional pleadings. The respondent is trying to mislead the court and fill the lacuna through her husband by subsequent pleadings. Already the suit has been filed seeking for the relief of permanent injunction. The defendant is a co-sharer the relief of permanent injunction is not maintainable. The plaintiff without seeking her remedy by filing a suit for partition if she has any right over the property is trying to achieve by filing the suit for permanent injunction. Hence, the respondent prays for dismissal of the application.

4. **Evidence :**

Neither the petitioner nor the respondents has placed any oral or documentary evidence before this court.

5. **Point for determination :**

Whether this petition is to be allowed or not.

6. Discussion and Findings :

Heard. Records perused. The petitioner has filed the present petition seeking leave of the Court to receive the reply filed to the counter in I.A. No.7 of 2026. It is seen from the records that the petitioner has stated that she is bedridden due to illness and is unable to attend the proceedings personally, and that the proposed reply is intended to address the averments raised in the counter filed by the respondents. The respondents have opposed the petition mainly on the ground that the filing of a reply is not maintainable and that the same is unnecessary. However, this Court is of the view that permitting the petitioner to place her reply on record would facilitate a complete and effective adjudication of the issues arising in the interlocutory application and would not cause any prejudice to the respondents, who will have the opportunity to contest the same during the course of proceedings. In the interest of justice and for a proper determination of the matters in controversy, this petition is allowed and the additional pleading/reply filed by the petitioner is ordered to be received as part of the record.

7. Result :

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

Dictated by me to the stenographer, directly typed by her in her desktop, corrected and pronounced by me in the open court on this the 10th day of June 2026.

District Munsif,
Ponneri.

Both side witnesses and documents:- NIL

District Munsif,
Ponneri.

Fair/ Draft Order
I.A.No.8/2026
O.S.No.152/2015
Date:10.06.2026
DMC,PNI