

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

**PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.**

Friday, the 12th day of April 2024.

I. A. NO.2 OF 2022
IN
O.S. NO.168 OF 2011

1. Karuna
2. Venilla

..... Petitioners/Defendants 1 and 2

Versus

1. K.Mani
2. Aaravalli

..... Respondent/Plaintiff
..... Respondent/3rd Defendant

This petition having come on 12.04.2024 before me for final hearing in the presence of Mr.N.R.Gopaalan, learned counsel for the petitioners/Defendants 1 and 2 and Mr.G.Sugumar, Mr.R.Kalamegam, learned counsels for the 1st Respondent/Plaintiff. The 2nd respondent was set exparte in the suit and hence notice to her in this petition is dispensed with. Upon hearing the arguments made by the learned counsels for the petitioners and the 1st respondent 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 VIII Rule 9 of CPC to grant leave to the petitioners to file additional written statement in the suit.

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

2.1. The petitioners submit that an extent of 75 cents (0.30.0 hectare) in S.No.109/1B2 is shown as the suit property and the 1st respondent / plaintiff claims

that the said 75 cents in S.No.109/1B was purchased by his father Kasi under a deed dated 05.12.1985 and that Patta No.107 was given in the name of his father Kasi. The 1st respondent also states that the suit property and other lands were allotted to the share of the plaintiff in an oral partition and that Kasi and Amirthammal, the parents of the plaintiff were dead long back.

2.2. The petitioners further submit that the plaintiff has filed this suit for the relief of declaration to declare the sale deed dated 26.04.2000 and the settlement deed dated 28.04.2011 as null and void and for a relief of permanent injunction to restrain the defendants 1 and 2 from alienating or encumbering the suit land.

2.3. The petitioners state that Amirthammal, wife of Kasi and Aaravalli, the daughter of Kasi had purchased 66 cents in S.No.109/1B of Vichoor village from one Rani under a registered sale deed dated 16.03.1989. Amirthammal and Aaravalli sold the said extent of 66 cents to the 1st petitioner under a sale deed dated 26.04.2000 and Patta bearing No.1683 was issued in favour of the 1st petitioner for the said extent of 66 cents after it was subdivided as S.No.109/1B2. The 1st petitioner then settled the said land in favour of his wife Vennila, the 2nd petitioner / 2nd defendant under a registered deed dated 28.04.2011. The Written statement verified on 28.09.2011 was filed by the petitioners in this suit. Thereafter the 1st petitioner states that they have obtained registration copies of certain documents in respect of S.No.109/1B of Vichoor village and since he was not educated and did not know the contents and implications of the copies of the documents obtained by him from the sub-registrar's office, he did not give the said documents to his then counsel. Then Aaravalli, the daughter of Kasi was impleaded as the 3rd defendant in this suit and the suit was posted for the written statement of the newly added 3rd defendant and for the Additional written statement of the defendants 1 and 2. Since the petitioners had misplaced the above stated copies of the documents obtained by them from the sub-

Registrar's office and that they could not trace them at that point of time, they could not give the said documents to their counsel. Subsequently, the 3rd defendant was set *exparte* and the court had observed that the Additional written statement of the defendants 1 and 2 was not filed. The said copies of documents were traced by the petitioners only a few days ago. The said documents in respect of S.No.109/1B are contrary to the stand taken by the plaintiff and that an additional written statement of the defendants 1 and 2 is to be filed. The petitioners state that the non-filing of an additional written statement earlier was due to the ignorance of the petitioners. If this petition is not allowed, the 1st and the 2nd defendants would be put to hardship. Hence, this Petition.

3. Brief averments of the counter filed by the 1st respondent are as follows:

The 1st respondent submits that in the suit already PW1 was examined and in the part heard stage the petitioners now to fill up the lacunae has filed this petition seeking permission to file additional written statement. The petitioners have filed their written statement very long back and having kept quiet for all these years the petitioners have now filed this petition. The 1st respondent submits that the petitioners have filed this petition only to drag on the suit proceedings and that there is no merit in this petition. Hence this petition is liable to be dismissed.

4. The 2nd respondent was set *exparte* in the suit and hence notice to her in this petition is dispensed with. Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not.

5. Heard both sides arguments. Records Perused.

6. On careful analysis, it is noted that the petitioners are the defendants in the suit and the 1st respondent is the plaintiff in the suit and the suit has been filed by the 1st respondent/plaintiff for a relief of declaration to declare certain registered documents

as null and void along with other reliefs. When the suit was pending for marking of documents on the side of DW1, this petition has been filed by the petitioners/defendants to permit them to file additional written statement in the original suit. The petitioners state that they need to submit certain details regarding certain documents they have obtained and that it is vital to prove their case and disprove the case of the 1st respondent and that since the petitioners had misplaced the same earlier they could not submit it then. On the other hand, the respondents have denied the Petition averments and states that this Petition has been filed only to protract the suit proceedings.

7. Considering the above rival submissions, this court views that to finally adjudicate the dispute between the parties and to save multiplicity of suit, it is necessary to provide fair and sufficient opportunities to parties to present their case. Hence, this court is inclined to permit the petitioners to file the additional written statement and thus this court is inclined to allow this petition on terms as the delayed filing of additional written statement caused unnecessary hardship to the 1st respondent / plaintiff.

8. In the result, this Petition is allowed subject to payment of costs of Rs.500/- payable by the petitioners to 1st respondent on or before 26.04.2024. Call on 03.06.2024 for reporting compliance.

Dictated to the steno-typist, directly typed by her in the desktop, corrected and pronounced by me in the open Court on this the 12th day of April 2024.

Sd/-V. VANNAMALAR,
DISTRICT MUNSIF,
PONNERI

Both side witnesses and documents:- NIL

Sd/-V. VANNAMALAR,
DISTRICT MUNSIF,
PONNERI

Fair/ Draft Order
I.A.No.2/2022
O.S.No.168/2011
Date:12.04.2024
DMC,PNI