

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE, SHENCOTTAH**

**`PRESENT : THIRU.M.SUNIL RAJA, B.A.M.L.,
DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, SHENCOTTAH**

Dated this the 20th day of February 2025

I.A.No.03 of 2025

in

O.S.No.57 of 2022

1. Tr.Arunachalam

2. Arumugasamy

....Petitioners/Plaintiffs

..Vs..

1. Tmt.Parvathi

2. Tr.Ilayakumarar

3. Tmt.Poornachanthrika

4. Tr.Luke Jeyakumar

....Respondents/Defendants

These petitions came up before me for final hearing in the presence of Tr.A.Marikani Learned counsel for the Petitioners/Plaintiffs and Tr.S.Venkatesh Learned counsel for the R1, R.2 Respondents/Defendants. D3 are called absent and set exparte and Tr.Y.Azath Learned counsel for the R4 Respondent/Defendant. On hearing both sides, upon perusing the material records, documents and having stood over for consideration till date this court delivers the following....

Order

This application has been filed by the petitioner under Section 151 of the Civil Procedure Code seeking permission to file a reply statement.

1. Summary of the Application:

- 1.1. The second defendant has filed this application stating that even at the time of filing the original suit and thereafter, the details of the case were communicated to the lawyer by the father of the second defendant, who is 87 years old and unable to move. It was only recently that the second defendant met the lawyer and learned that a reply statement needed to be filed. Therefore, permission is sought to file a reply statement to the counterclaim filed by the defendants.

2. Summary of the Counter:

- 2.1. The respondent claims that the details mentioned in the application are incorrect and that the application was filed to delay the case. The written statement was filed by the defendant on 30.03.2023, and a copy was given to the plaintiff on the same day. Subsequently, on 18.12.2024, the court ordered the parties to appear for examination under Order 10 of the Civil Procedure Code, but they did not appear.
- 2.2. Later, the issues were framed, and the case was listed for trial. On 02.01.2025, an interim application IA No.02/2025 was filed under Order 6, Rule 17 of the Civil Procedure Code to amend the survey number in the property details, which was allowed, and the amendment was made. After that, the case was listed for trial again, and this application was filed by the petitioner to delay the trial. Therefore, it should be dismissed.

3. Issue to be Decided:

- 3.1. The issue to be decided is whether the application seeking permission to file a reply statement should be allowed.

4.1. Court's Consideration:

- 4.2. Order 8, Rule 9 of the Civil Procedure Code states that no additional pleadings shall be filed without the court's permission. The petitioner has filed this application under Section 151 instead of the appropriate provision. However, the incorrect citation of the provision is not a significant issue, and the application should be considered under the correct provision Order 8, Rule 9 of the Civil Procedure Code.
- 4.3. The original suit was filed in 2022 by two plaintiffs against four defendants. After the summons was served, the fourth defendant filed a written statement on 30.03.2023, and a copy was given to the plaintiffs. The plaintiffs did not file any application seeking permission to file a reply statement or additional pleadings within a reasonable time. Moreover, the written statement did not seek any counterclaim or set-off.
- 4.4. In this context, the original suit was adjourned for framing issues, and the issues were framed. On 02.01.2025, the plaintiffs filed an interim application to amend the survey number in the property details, which was allowed, and the amendment was made. After that, the case was listed for trial again, and this application was filed by the petitioner.
- 4.5. The petitioner claims that the first plaintiff had communicated the details to the lawyer, and only recently did the second plaintiff learn that a reply statement needed to be filed. This application was filed nearly two years after the written statement was filed and after the issues were framed and the case was listed for trial.

4.6. The conduct of the petitioners suggests that the application was filed to delay the trial. The reason mentioned in the application is not sufficient to grant permission to file a reply statement. Therefore, this court decides that no permission should be granted to file a reply statement in this context and the petition is liable for dismissal.

As a result, this application is dismissed.

This orders are transcribed via speech-to-text on my computer, edited and corrected by me, and pronounced in open court today, the 20th of February 2025.

District Munsif Cum
Judicial Magistrate, Shencottah

1. Petitioners/Plaintiffs side witness and Documents:NIL

2. Respondents/Defendants side witness and Documents:NIL

District Munsif Cum
Judicial Magistrate, Shencottah