

In the Court of the District Munsif, Sathankulam.

Present. Thiru.M.Siva Rajesh, B.B.A.,L.L.B.,

District Munsif Sathankulam.

Dated:- This the 1st day of June 2026, Monday.

E.A.No.2/2026

in

E.P.No.1/2025

in

O.S.No.34/2019

Jeyasingh (Age 59),

S/o. Ponniah Nadar,

Idachivillai, Arasoor – II Village,

Sathankulam Taluk, Thoothukudi District.

... Petitioner/1st Respondent

1st Defendant

/VS/

1. A.Kasilinga Nadar (Age 76),

S/o. Arumuga Nadar,

10/49 Poovudaiyarpuram, Naduvakurichi Village,

Sathankulam Taluk, Thoothukudi District.

...1st Respondent/Petitioner/

Plaintiff

2. Aavin (Age 44),

S/o. Velliah Nadar,

Idachivillai, Arasoor -II Village,

Sathankulam Taluk, Thoothukudi District.

... 2nd Respondent/2nd Respondent/

2nd Defendant

Advocate for the Petitioner : Thiru.J.Jebasingh Selwyn

Advocate for the 1st Respondent : Thiru.M.Vasaharajan

Advocate for the 2nd Respondent : Tmt.Sheeba Irin

1. Relief :-

The petitioner filed this petition under Section 151 CPC seeking permission to file an additional written statement.

2. Case of the Petitioner:-

2.1 The petitioner state that he is the 1st respondent in the main execution petition, and the 1st defendant in the main suit. It was stated that he had already filed written statement. It was further stated that certain important facts and documents, which are necessary for the proper adjudication of the case, came to his knowledge. Therefore, it has become necessary to file an Additional Written Statement before this Court.

2.2 The petitioner state that, if this Court permits him to file the additional written Statement, no prejudice will be caused to the other side.

2.3 Considering the aforesaid submission the petitioner prays to allow this petition.

3. Counter of the 1st Respondent:-

3.1 The 1st respondent state that the present application filed by the petitioner/Judgment Debtor seeking permission to file an Additional Counter Statement is unnecessary, belated, and not maintainable either in law or on facts. It was alleged it was intended only to delay the execution proceedings. It was stated that the suit in O.S.No.34 of 2019 was decreed by this Court after full trial and the decree has attained finality. The present main Execution Petition has been filed only for enforcement of the said decree.

3.2 The 1st respondent state that the contention that no such site exists with the boundaries described and that the 1st respondent has no connection with the area marked as "CDGH" is incorrect. The 1st respondent further denied the allegation that the owner of the said area is not a party to the suit.

3.3 The 1st respondent state that the petitioner cannot reopen issues already decided by this Court in the main suit. The 1st respondent further state that it is well settled that execution proceedings cannot be converted into a fresh trial and that a Judgment Debtor cannot raise new pleas which were not raised during the trial.

3.4 The 1st respondent further state that the petitioner has not shown any valid or bona fide reason for filing the Additional Counter Statement at this belated stage. The vague statement that certain facts later came to his knowledge is unsupported by particulars. It was alleged that the

present petition has been filed only to protract the execution proceedings and deprive the Decree Holder from enjoying the fruits of the decree. The petitioner is therefore estopped from raising fresh defences at the stage of execution.

3.5 The 1st respondent state that the petitioner/ 1st defendant had earlier filed E.A.No.1 of 2025 seeking appointment of an Advocate Commissioner in respect of the 3rd schedule property situated in Survey No.673/3A1. Pursuant thereto, this Court appointed Tmt. Roselin, Advocate, as Advocate Commissioner. The Commissioner inspected and measured only the 3rd schedule property and filed a report before this Court.

3.6 The 1st respondent further state that in the main suit itself, in I.A.No.104 of 2019, this Court appointed Tmt. T. Sutha Fathima, Advocate Commissioner, who inspected the suit properties with the assistance of a qualified surveyor on 04.05.2019 after due notice to the parties. A detailed report along with a rough sketch was filed before this Court. It was further stated that the petitioner herein participated in the said proceedings through counsel and was fully aware of the same.

3.7 The 1st respondent state that the Advocate Commissioner clearly identified and measured the 3rd schedule property and found that instead of 2.75 cents, the petitioner herein/ 1st defendant was in enjoyment of 4.94 cents including the 2nd schedule property (pathway). The same has been specifically stated in 6th paragraph of the Commissioner's Report marked as Ex.C1 and Ex.C2.

3.8 The 1st respondent state that the petitioner herein is entitled only to 2.75 cents in the 3rd Schedule property vide registered sale deed dated 24.09.2001 executed by Kani Ammal and marked as Ex.A2. However, the petitioner herein has been enjoying 4.94 cents, which has also been recorded in Paragraph 5.18 of the Judgment dated 27.06.2024. It was further stated that it was well settled that execution proceedings are only for enforcement of the decree and cannot be converted into a fresh round of litigation. A Judgment Debtor cannot be permitted to file belated pleadings merely to delay execution unless exceptional and bona fide reasons are shown.

3.9 The 1st respondent alleged that the present application seeks to introduce new pleadings which ought to have been raised during the trial itself. Such belated attempts are intended only to delay the execution proceedings and therefore deserve dismissal. It was further stated that the decree has become final and binding on the parties and no stay order has been obtained from the Appellate Court. Hence, the decree is liable to be executed in accordance with law.

3.10 The 1st respondent state that the application does not disclose any new facts arising subsequent to the earlier counter statement. It is settled law that additional pleadings cannot be permitted merely to fill up lacunae or improve the case of a party. Considering the aforesaid

submission the 1st respondent prays for dismissal with costs.

4. Analysis and findings of this court :-

4.1 Heard. Record Perused.

4.2 This petition has been filed by the petitioner/Judgment Debtor seeking permission to file an Additional Counter Statement at the stage of execution proceedings. The main objection raised by the respondent/decreed holder is that the present application is highly belated, unnecessary, and intended only to delay the execution of the decree which has already attained finality.

4.3 It is an admitted fact that the suit in O.S.No.34 of 2019 was decreed by this Court after full-fledged trial. The petitioner herein had actively participated in the suit proceedings and had sufficient opportunity to raise all available pleas and defences during the trial. The records further disclose that Advocate Commissioners were appointed both in the suit proceedings as well as in E.A.No.1 of 2025, and detailed reports along with sketches were filed before this Court after inspection and measurement of the properties in the presence of the parties.

4.4 The foremost contention of the petitioner that certain new facts subsequently came to his knowledge has not been supported by any material particulars. Except making a vague averment, the petitioner has failed to explain as to why such pleas were not raised earlier either during the trial or at the time of filing the original counter statement in the execution proceedings.

4.5 It is a settled principle of law that execution proceedings cannot be converted into a retrial of the suit and the Judgment Debtor cannot be permitted to raise fresh pleas inconsistent with the decree already passed.

4.6 The present application does not disclose any bonafide or exceptional circumstance warranting permission to file an Additional Counter Statement at this stage.

4.7 Accordingly, this Court holds that the petitioner is not entitled to the relief sought.

Petition is dismissed. No order as to costs.

Dictated to the Steno-Typist, typed by her, corrected, and pronounced by me in open court on this 1st day of June, 2026.

(Sd) M. Siva Rajesh, 01/06/2026

District Munsif,
Sathankulam.

Petitioner side witness and documents - Nil

Respondents side witness - Nil

Respondents side documents:-

Ex.R1 – Commissioner Report marked as C1 and C2 in OS No.34/2029 on the file of this Court (Certified Copy)

(Sd) M. Siva Rajesh,01/06/2026

District Munsif,
Sathankulam.

DMC,Sathankulam,
EA.No.2/2026 in
EP No.1/2025 in
O.S No. 34/2019
Fair/Draft Order
Dated : 01.06.2026