

**In the Court of the Additional District & Sessions Judge,
Srivilliputtur.**

**Present : Tmt. Gajara R. Jiji, M.A., L.L.M.,
Additional District Judge,
Srivilliputtur.**

Saturday, the 3rd day of February 2024

I.A.No.10/2024

in

O.S. 112/2018

.....

V.A.S. Archuna Raja

... Petitioner / Plaintiff

/vs/

1) V.N. Yashodhaiammal (Died)

2) V.N. Murali Sankar Raja

... Respondents / Defendants 10 and 11

This petition came before me for final hearing on 24.01.2024 in the presence of Thiru.S. Kiruba Vijay Anand, Advocate for the petitioner, and of Tmt.K.Lalitha, Advocate for the 2nd respondent, and upon hearing arguments on both side and perusing the case records, this Court passed the following....

ORDER

This is a petition under Section 151 of CPC to condone the delay for filing the Reply Statement.

1. Averments in the petition in brief are as follows:

The petitioner is the plaintiff. The respondents had filed counter claim but the petitioner did not file the reply statement for the counter claim. If the reply statement is not filed the counter claim will succeed. The plaintiff is aged about 90 years and so he could not file the reply statement. The case is posted for trial. The petitioner hence prays to condone delay in filing the reply statement and allow the petition.

2. Averments in the counter statement filed by the 2nd respondent / 11th defendant in brief are as follows :-

This petition is not maintainable either on facts or on law. The petitioner while stating his age as 86 years in the swearing portion has stated in Para 2 that his age is 90 years create doubts age of the plaintiff. The petitioner has not stated any reason for not filing the reply statement and hence the petition is liable to be dismissed.

3. No oral or documentary evidence produced on either side. Heard both side.

4. Point for Consideration

- 1) Whether the delay in filing the reply statement is to be condoned?
- 2) Whether the petition is to be allowed or not?

5. Points and answer :-

The points to be decided are interlinked and interwoven and hence the points are decided together.

This petition has been filed to receive the reply statement filed by the petitioner regarding the counter claim filed by the respondents. The counter claim was filed on 08.04.2022. But the petitioner filed this petition to receive the counter claim only on 27.12.2023 and the returned petition was represented only on 04.01.2024. However the petitioner has not stated the reason for delay in filing the reply petition. Since the respondents have filed counter claim, the plaintiff cannot effectively contest the same without filing proper reply. Hence considering the age of the petitioner and also considering that the parties to the suit should be given opportunity to put forth their

case in full before the court of first instance itself, this court is inclined to condone the delay in filing the reply statement and receive the reply statement. In the light of the above discussions this court finds that the delay in filing the reply statement may be condoned and the reply statement may be received. Accordingly the points are decided.

In the result, the petition is allowed. No costs.

Dictated to Steno Typist, typed by her in computer, then corrected and pronounced by me in open court, on this the 3rd day of February 2024.

Additional District and Sessions Judge,
Srivilliputtur.

Additional District & Sessions
Court,
Srivilliputtur,
I.A. 10/2024 in O.S. No. 112/2018
ORDER (Web copy)
Date: 03.02.2024